BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)
	)
Application by SBC Communications Inc.,	)
Michigan Bell Telephone Company, and	)
Southwestern Bell Communications Services,	) WC Docket No. 03-16
Inc. for Provision of In-Region, InterLATA	)
Services in Michigan	)

DECLARATION OF KAREN W. MOORE
AND TIMOTHY M. CONNOLLY
ON BEHALF OF AT&T CORP.

February 6, 2003

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DECLARATION OF KAREN W. MOORE
AND TIMOTHY M. CONNOLLY
ON BEHALF OF AT&T CORP.

1.   My name is Karen W. Moore. My business address is 222 W. Adams

Street, Chicago, Illinois 60606.

2.   I am employed by AT&T Corp. as Manager, Performance Measures, in

Local Services and Access Management. In my position, I am responsible for the business

relationship with SBC Communications Inc. ("SBC") as it relates to SBC's performance as a

wholesale provider of unbundled network elements. Those responsibilities include negotiating

performance metrics with Ameritech and Southern New England Telephone ("SNET") for the

purpose of facilitating local market entry by AT&T.

3.   AT&T is currently providing local exchange service through the UNE

platform ("UNE-P") to residential customers in six SBC states, and business local service in nine

SBC states. In Michigan, AT&T has been purchasing unbundled network elements from

Ameritech Michigan for more than a year to provide business and residential local services.

4.   Since June, 1999, I have represented AT&T in all performance measure

collaboratives in the Central Region. I negotiate performance metrics with SBC/Ameritech for

inclusion in interconnection agreements. I also compare and analyze AT&T results with

SBC/Ameritech Account Team members who support performance issues.

5.   Prior to assuming my present duties, I held assignments at AT&T Corp. in

Consumer Services as a Strategic Pricing Manager, in Law and Government Affairs as a Docket

Manager in Illinois, and a variety of business account management positions of increasing

responsibility, beginning in 1989 as Account Executive and ending as Sales Manager.

6.   I am a 1986 graduate of the College of Liberal Arts at Boston University,

where I received a B.A. in Psychology with a minor in Philosophy.

7.   Since 1999, I have attended either in person or via telephone conference

bridge, every performance measures collaborative affecting Michigan performance measures, as

well as the other four SBC/Ameritech states. I provided AT&T's perspective and input on every

measure discussed.

8.   I have attended either in person or via telephone conference bridge every

six month performance measure review collaborative meeting. I have submitted proposals for

modifications to the performance measures currently in place in Michigan and assisted in the

development of the parties' joint motions for approval of metrics changes to the Michigan Public

Service Commission ("MPSC").

9.   I have attended either in person or via telephone conference bridge every

meeting held by the MPSC to discuss the development of the Master Test Plan. I have also

assisted in the development of each change request to the Master Test Plan that AT&T has

advocated. I have also attended MPSC meetings where findings by BearingPoint and Ernst &

Young were discussed.

10.   I have testified on performance measure issues before the MPSC in Docket

No. U11830, and before the Illinois Commerce Commission in Docket Nos. 01-0120 and 01-

0539. I have also submitted affidavits in the Ohio and Wisconsin Ameritech Section 271

proceedings focusing on performance and remedy plan issues.

11.   My name is Timothy M. Connolly. I am a business systems analyst.

Currently, I operate the consulting firm of C2 Technology Analysts ("C2TA"). My company is

located at 2005 Arbor Avenue in Belmont, California. I have degrees from Creighton University

in Omaha, Nebraska, and from the University of Illinois at Chicago.

12.   In my current capacity as a business systems analyst, I serve as a

consultant to AT&T concerning OSS, third-party testing of the OSS of incumbent local exchange

carriers ("ILECs"), ILEC Change Management Processes ("CMP"), incumbent-to-competitor

testing procedures, and performance measurement systems. I have consulted with AT&T on

OSS matters for more than six years.

13.   Prior to starting C2TA, I worked for technical consulting companies and partnerships that were engaged to evaluate and recommend technology platforms for communications carriers, including incumbent OSS offerings. Several of these consulting assignments have involved the OSS obligations of ILECs under the Telecommunications Act of 1996 and, in particular, State and federal regulatory commission requirements for the operational readiness of OSS to meet Section 271 checklist requirements. I have testified on the OSS capabilities of incumbent carriers across the country in State and federal proceedings, including the proceedings before this Commission involving Ameritech Michigan's 271 application, Bell Atlantic's Section 271 application for New York, Southwestern Bell's Section 271 application for Texas, and the three Qwest multi-state Section 271 applications. Prior to becoming a consultant, I worked for AT&T for fourteen years in a variety of capacities, including management of an international systems integration business unit that developed software packages of business and network support systems for domestic and overseas customers of AT&T.

14.   My work for AT&T on Ameritech's OSS third-party testing began in 1999 with the Ohio and Illinois Commission proceedings on the SBC-Ameritech merger conditions where the Commission established conditions of approval based in part on CLEC negotiations for OSS improvements. These activities grew into the development of the Master Test Plan ("MTP") for the Michigan Commission. I participated in the industry collaborative for AT&T which resulted in the MTP used by BearingPoint. I also represented AT&T throughout the Michigan test by participating in the weekly Exception and Observation conference calls and the

weekly BearingPoint meetings with CLECs and the MPSC staff. I also participated in each of

the meetings covered by the State Commissions to discuss testing issues on a face-to-face basis.

I.   PURPOSE AND SUMMARY

15.   Part II explains that a performance monitoring and reporting system is

effective only if it accurately captures the performance it is intended to measure. However,

SBC's performance measurements are not designed to and do not capture serious deficiencies in

SBC's OSS performance. As explained in the Declaration of Sarah DeYoung and Walt Willard

("DeYoung/Willard Declaration"), although SBC has sent significantly delayed or incorrectly

formatted Line Loss Notifications ("LLNs"), these serious lapses in performance are nowhere

captured in SBC's performance results.

16.   Similarly, the substantial defects in Michigan Bell's OSS have spawned

erroneous rejections of orders. Because AT&T must "supp" these orders to meet the customer's

due date -- which eliminates the original Local Service Request ("LSR") from scrutiny under the

performance measurement plan -- SBC's performance failures are not reflected in its reported

results.

17.   Additionally, by SBC's own admission, it has failed to issue Billing

Completion Notifications ("BCNs") to AT&T. Because there are no BCN metrics in Michigan,

these omissions in performance are not reflected in SBC's reported results. In view of these and

other inherent limitations and gaps in the current performance monitoring scheme, SBC's

arguments touting the comprehensiveness of its performance measurements ring hollow.

18.   Part III explains that the MPSC itself has acknowledged that SBC's performance monitoring and reporting processes have not yet achieved the stability that is required to assure appropriate monitoring of discriminatory conduct in the wake of Section 271 relief. The MPSC's finding, standing alone, precludes a determination here that SBC's performance data are accurate and trustworthy. Notwithstanding its unequivocal statements regarding the serious deficiencies in SBC's performance monitoring and reporting systems, the MPSC, nonetheless, concluded that SBC has satisfied its Section 271 obligations. In so finding, the MPSC suggested that this Commission has approved applications where the Applicant's performance data were suspect. The MPSC's analysis is flawed. This Commission has never approved an application where the state commission expressly found that the applicant's performance data were untrustworthy or where there were so many negative data integrity findings by two separate auditors. This Commission should not break with its precedent now.

19.   Part IV explains that the performance metrics testing conducted to date lends no support for SBC's misguided claims that its data are accurate and reliable. Both the BearingPoint (formerly KPMG) and E&Y audits on which SBC relies are incomplete, and the E&Y audit on which SBC so heavily relies is procedurally and substantively flawed. Even if these audits were error-free -- and they are not -- the audit reports are riddled with examples of deficiencies in the performance monitoring and reporting processes which are not yet remedied and which underscore the inherent unreliability of the data in the Application.

20.   Part V shows that SBC cannot reasonably assert that its performance in providing CLECs with its raw data is further evidence of the reliability of its data. Although

SBC has provided AT&T with its raw data for a limited subset of measures, AT&T has found

that a suspiciously large number of its trouble tickets have been excluded from SBC's raw data.

Worse yet, the disposition codes that SBC has provided to AT&T render it impossible to discern

whether AT&T's trouble tickets were properly excluded from performance results.

21.   Part VI explains that even SBC's own inadequate data show that it has not

provided nondiscriminatory access to its OSS. Thus, for example, SBC's own performance

results show that SBC has not performed at parity during the provisioning process for UNE-P

orders.

II.   SBC'S METRICS DO NOT CAPTURE DEFICIENCIES IN OSS PERFORMANCE.

22.   This "Commission has found that performance measurements provide

valuable evidence regarding a BOC's compliance or noncompliance with individual checklist

items."[1] In its application SBC touts the purported comprehensiveness of its performance

monitoring scheme. However, performance measurements serve no useful purpose unless they

accurately reflect the performance they are intended to measure. Notwithstanding SBC's claims

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[1] *Connecticut 271 Order*, Appendix D, ¶ 7. *See also Ameritech Michigan 271 Order* ¶ 22 (noting that "we will look to see if there are appropriate mechanisms, such as reporting requirements or performance standards, to measure compliance, or to detect noncompliance, by the BOCs with their obligations"); *id.* ¶ 21 (noting that "[c]lear and precise performance measurements are critical to ensuring that competing carriers are receiving the quality of access to which they are entitled") (footnote omitted); *id.* ¶ 211 ("[t]he Commission must be satisfied that the performance measures that Ameritech relies on in support of its Section 271 application actually measure performance in a manner that shows whether the access provided to OSS functions is nondiscriminatory").

to the contrary, its performance metrics are not designed to and do not capture the serious

deficiencies that plague SBC's OSS as described in the DeYoung/Willard Declaration.

23.   For example, as discussed in the DeYoung/Willard Declaration, over the

course of the last year, AT&T has received either significantly delayed or incorrectly formatted

Line Loss Notifications (*i.e.* 836 records). These performance failures, however, are not captured

in Michigan Bell's performance measurement results.

24.   In this regard, the performance measurement for Line Loss Notification is

PM MI 13 (Percent Loss Notification Within One Hour of Service Order Completion). While

the measurement is designed to capture the timeliness of line loss notices,[2] even a cursory review

of SBC's own self-reported data shows that the data collection for PM MI 13 *must* be seriously

flawed. SBC's self-reported results for December 2002 show, for example, that AT&T received

6,918 line loss notices, 6,378 of which (92%), according to SBC, were on time. In contrast,

AT&T's own data for December 2002 show that it received 2,966 late line loss notices.

25.   Thus, SBC's significant failures with respect to Line Loss Notifications

that have seriously impeded AT&T's ability to use Michigan Bell's OSS successfully and

efficiently appear to be nowhere reflected in the performance data on which SBC so heavily

relies to support its Application. Moreover, this measurement is not designed to capture

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[2] Ehr Aff., Exhibit A, MI 13 at 187.

inaccurately formatted or incomplete LLNs. Thus, the measure would not and did not capture, for example, SBC's failure in November to send LLNs that included disconnect dates.[3]

26.   Similarly, as explained in the DeYoung/Willard Declaration, the substantive deficiencies that plague Michigan Bell's OSS have resulted in improper rejections of thousands of AT&T's orders. These orders were rejected because Michigan Bell implemented a change in its interface code without any prior notice -- or any notice at all -- to AT&T. In order to meet the due date promised to AT&T's customers, AT&T was forced to supplement the rejected orders. However, a "supp" essentially cancels the original LSR and eliminates the LSR from the performance monitoring and reporting process. As a result, when SBC erroneously rejects an order and AT&T is forced to "supp" the rejected order, SBC's performance measures do not capture this phenomenon. Indeed, because of the inherent limitations in SBC's measures, the delays in the ordering and provisioning process that are triggered by the return of erroneous rejection notices are not reflected in SBC's reported results.

27.   In this regard, under SBC's performance measurement plan, the interval for order confirmation timeliness is measured from receipt of a valid order until distribution of the Firm Order Confirmation ("FOC").[4] However, for those orders that are incorrectly rejected and "supped," the clock is restarted upon receipt of the "supp." As a consequence, even when

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[3] Because of SBC's inability to transmit all Line Loss Notifications, AT&T and other CLECs have requested an additional measure that would capture those instances in which SBC has failed to provide a Line Loss Notification. SBC has agreed to implement this measure (PM MI 13.1). However, the current data included in SBC's application do not capture missing LLNs.

[4] *See* Ehr Aff., Ex. A, Performance Measurement 5 (Percent Firm Order Confirmation (FOCs) Returned Within "x" Hours) (stating that this measure captures the "[p]ercent of FOCs returned within a specified time frame from receipt of a complete and accurate service request to return of confirmation to CLEC").

SBC returns a spurious rejection notice (instead of a FOC), SBC's performance measures will only capture the timeliness of the FOC from the receipt of the supplemental order, instead of the original LSR. Furthermore, the issuance of a spurious rejection, followed by a "supp," introduces delays in the provisioning process. However, SBC's issuance of unwarranted rejection notices and the attendant delays in the ordering and provisioning processes are nowhere reflected in SBC's performance data. Indeed, SBC's data will only capture Michigan Bell's performance in meeting the due date on the supplemental order.

28.   As explained in the DeYoung/Willard Declaration, AT&T estimates that, if just a small subset of the problems that AT&T has experienced in the last several months were reflected in SBC's performance data, SBC would owe AT&T at least an additional $10 million in performance penalties. In Michigan, for example, in October, November and December 2002, AT&T submitted 38,000 orders that were erroneously rejected (and, therefore, did not receive a FOC). Assuming *arguendo* that 50% of these orders were submitted in Michigan and that these orders were completed after the due date on the original LSR, SBC would have been required to pay more than $1.3 million for failing to meet the performance standard under Performance Measurement 28 (which measures the percentage of orders completed within the customer-requested due date). SBC also would have been required to pay penalties for failing to meet other performance measurements, including Performance Measurement 5 (percentage of FOCs returned within "X" hours).

29.   Furthermore, as explained in the DeYoung/Willard Declaration, because of the deficiencies in its OSS, Michigan Bell failed to issue thousands of billing completion

notifications to AT&T in response to orders that AT&T sent via the LSOG 5 version of EDI.

Because AT&T needs a BCN to verify that the end-user is now treated by SBC's systems as an

AT&T customer, AT&T is essentially unable to send a subsequent order on the same customer's

account until it receives the BCN for the prior order that it submitted to SBC. However, there are

no measures in the Michigan Bell region that capture SBC's BCN performance. As a

consequence, SBC's failures in this area are not reflected in its performance data.

30.   Similarly, as discussed in the DeYoung/Willard Declaration, although

SBC claims that it has adhered to the change management process ("CMP") with respect to its

releases since March 2001, SBC ignores that it has repeatedly made changes to the OSS and

business rules without providing the notice required by the CMP, or has asserted that the CMP

does not apply. The current measurement plan includes Performance Measurement MI 15

(Change Management) which measures the timeliness of change notifications for final

requirements to implementation. However, this measure does not capture SBC's failure to send

any notice or failure to send notice for any change after the interface is deployed.

31.   Given the inherent limitations and gaps in the performance measures upon

which SBC relies, SBC cannot seriously contend that its measurements accurately and

comprehensively capture its actual performance. Indeed, as the DeYoung/Willard Declaration

explains, no solace can or should be taken that SBC's reported results reflect its actual

performance. Because the measures do not capture these problems, the incentive plan that SBC

touts in its Application does not penalize SBC for these defects in its OSS. Performance

monitoring and enforcement plans are the principal tools that the MPSC will use to assure SBC's

compliance with its statutory obligations. Because the current performance measurements plan

contains no measures that capture SBC's failings in the areas described above, the performance

enforcement plan on which SBC relies provides no "incentives" for SBC to fix these OSS

defects. As a consequence, the purported self-executing mechanisms of the penalty plan are

doomed to failure.

III.   THE MPSC HAS FOUND THAT SBC'S DATA ARE UNSTABLE.

32.   This Commission has held that "the reliability of reported data" used to

support a Section 271 application is "critical"[5] to Section 271 analysis, and that performance data

must be "above suspicion."[6] Remarkably, the MPSC's own findings on SBC's compliance with

Section 271 demonstrate that SBC's performance data have not met and cannot meet this test.

33.   During proceedings before the MPSC, AT&T and other commenters

argued that the sheer volume and frequency of SBC's restatements to its prior reported results

underscore the inherent unreliability of SBC's performance data. In addressing SBC's

restatements of its performance data that were cited by both BearingPoint and E&Y in their

audits as evidence of the instability of SBC's performance data, the MPSC concurred, stating that

SBC's "frequent restatements [of its performance data] are indicative of the fact that *stability has*

not yet been achieved in SBC's metrics reporting, particularly during this time of responding and

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[5] *Kansas/Oklahoma 271 Order* ¶ 270.

[6] *Texas 271 Order* ¶ 429. *See also Kansas/Oklahoma 271 Order*, ¶ 278 ("As we held in prior Section 271 orders, the reliability of reported data is critical; the performance measurements must generate results that are meaningful, accurate, and reproducible").

correcting issues identified by both BearingPoint and E&Y."[7] Indeed, the MPSC emphasized

that it "believes reporting stability is at this time an unachieved goal."[8]

34.   Critically, the MPSC stated that it "cannot conclude that SBC's

performance metrics reporting process has fully achieved a level of stability and dependability

which will be required in the post-Section 271 environment to permit continued monitoring and

assurance against discriminatory behavior."[9] Additionally, the MPSC found that "any reliance

should be made with caution" with respect to 21 performance measurements which "represent

approximately 14% of SBC's 150 Michigan PMs and include approximately 14% of the total

disaggregations on which SBC wishes to rely for support of checklist compliance."[10] In that

connection, the MPSC found that "the data reported for [certain] measures may not be expected

to represent what is reasonably understood to be the intent of those measures,"[11] and that defects

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[7] Report of the Michigan Public Service Commission, Case No. U-12320 ("Michigan Report") at 17 (emphasis added).

[8] *Id.*

[9] *Id.* at 22 (footnote omitted).

[10] *Id.* The 21 performance measurements are: "CLEC WI 9 (FMOD Process: Form C Percent Return Quote Within the Interval Ordered by the Commission), 10.4 (Percentage of Orders Given Jeopardy Notices), MI 2 (Percentage of Orders Given Jeopardy Notices Within 24 Hours of the Due Date), MI 12 (Average Time to Clear Service Order Errors), 54 (Failure Frequency), 54.1 (Trouble Report Rate Net of Installation and Repeat Reports), 65 (Trouble Report Rate), 65.1 (Trouble Report Rate Net of Installation and Repeat Reports), 1.2 (Accuracy of Actual Loop Makeup Information Provided for DSL Orders), 14 (Billing Accuracy) (for June and July), 28 (Percent POTS/UNE-P Installations Completed Within the Customer Requested Due Date), 43 (Average Installation Interval), 44 (Percent Specials Installations Completed Within Customer Requested Due Date), 55 (Average Installation Interval), 55.1 (Average Installation Interval-DSL), 56 (Percent Installations Completed Within Customer Requested Due Date), 56.1 (Percent Installations Completed Within the Customer Requested Due Date for Loop with LNP), 105 (Percentage of Requests Processed Within 35 Days), 106 (Average Days Required to Process a Request), MI 5 (Structure Requests Completed Outside of Interval) and 19 (Daily Usage Feed Timeliness)." Michigan Report at 22.

[11] *See id.* at 20 (referring to CLEC WI 9, PM 10.4, PM MI 2 and PM MI 12).

in the performance data for other measures can be remedied through the implementation of new processes.[12]

35.   The conclusions reached by the MPSC regarding the instability of SBC's monitoring and reporting processes and the inherent unreliability of its performance data are nothing short of remarkable. Astonishingly, the MPSC, undaunted by its own findings, then dismissed their import by suggesting that this Commission's *Georgia/Louisiana 271 Order* supports the notion that Section 271 compliance can, nonetheless, be found in these circumstances. After concluding that SBC's performance monitoring and reporting processes are unstable and unreliable, the MPSC indicated that it could, nevertheless, find checklist compliance because "the FCC concluded in its Georgia Section 271 approval [that] all audits need not have been completed prior to the filing of a Section 271 application."[13] The MPSC's analysis is fundamentally flawed.

36.   The MPSC's reliance on the *Georgia/Louisiana 271 Order* to support its ultimate finding of checklist compliance is misplaced. This Commission has never approved a Section 271 application when the state commission itself found that performance data relied upon by the Applicant are suspect.

37.   Indeed, in the *Georgia/Louisiana 271 Proceeding*, both the Georgia and Louisiana Commissions found that BellSouth's data were accurate; and this Commission

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[12] *Id.* at 21.

[13] *Id.* at 22.

concurred, stating that "BellSouth performance data is accurate, reliable, and useful."[14] In

contrast, the MPSC expressly found that SBC's performance data *have not* yet achieved stability

or dependability.

     38.   Similarly, in the *Georgia/Louisiana 271 Order*, although this Commission

stated that it "has not required a complete audit of the data in past Section 271 orders," it also

made clear that "it will give greater weight to evidence that has been audited . . . ."[15] In the

Georgia/Louisiana Proceeding, two metrics audits had been completed, and the third audit was

still in progress at the time of the Commission's decision. As to the third, incomplete audit, this

Commission found that any problems that had then been uncovered to date had "only a small

impact on the data . . . ."[16]

     39.   In contrast, the BearingPoint audit is not complete, and SBC has not yet

taken all of the corrective steps that are necessary to address all of the deficiencies in its

performance monitoring and reporting systems that E&Y identified.[17] Furthermore, both audits

have uncovered significant deficiencies in SBC's performance data which have yet to be

remedied. Because, by the MPSC's own finding, SBC's performance monitoring and reporting

systems are not sufficiently stable to ensure accuracy in reporting in the wake of Section 271

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[14] *Georgia/Louisiana 271 Order* ¶ 19.

[15] *Id.* n. 68.

[16] *Id.* ¶ 19.

[17] *See* Ehr Aff. ¶ 197 (noting that the BearingPoint audit is "currently expected to be completed by end of the second quarter 2003," and that the E&Y audit is "very near completion.")

relief, it is plainly evident that SBC has not demonstrated and cannot demonstrate that its data are

accurate, reliable and complete -- a fundamental showing in all prior 271 applications.

IV. THE AUDIT TESTING CONDUCTED TO DATE DOES NOT VALIDATE SBC'S DATA.

40.   SBC maintains that this Commission can confidently rely on its

commercial performance data because the accuracy and reliability of its data have been

confirmed by audits conducted by BearingPoint and E&Y. SBC's reliance on these audits to

support its claims regarding the purported integrity of its data is misplaced.

41.   In the Spring of 2000, BearingPoint was selected as the third-party tester

of SBC's Operational Support Systems ("OSS"). After collaborative discussions in which the

staff of the MPSC, interested CLECs, and SBC participated, the parties reached agreement

regarding the Master Test Plan ("MTP")[18] that would govern the OSS test.

42.   The BearingPoint MTP covers three tests: (1) Performance Metrics

Reviews ("PMR"); (2) Policies and Procedures Reviews ("PPR"); and (3) Transaction Validation

and Verification ("TVV"). The PMR test, which is discussed herein, is designed to assess "the

systems, processes, and other operational elements associated with Ameritech's support for

Performance Metrics."[19] The PMR portion of the OSS test assesses five areas: (1) PMR1 - Data

Collection and Storage Verification and Validation Review; (2) PMR2 - Metrics Definitions and

Standards Development and Documentation Verification and Validation Review; (3) PMR3 -

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[18] *See* MTP, Application, App. C, Tab 70.

[19] MTP at 21.

Metrics Change Management Verification and Validation Review; (4) PMR4 - Metrics Data

Integrity Verification and Validation Review; and (5) PMR5 - Metrics Calculation and Reporting

Verification and Validation Review.

43.   During its testing, BearingPoint initially undertook an evaluation of

SBC's reported data for April 2001; however, BearingPoint was thwarted in its efforts because of

the substantial inadequacies in SBC's performance measurement system practices, procedures

and documentation which were the subject of a number of exceptions. At SBC's urging,

BearingPoint next targeted SBC's October 2001 performance results for testing. However,

SBC's data generated during that period also failed to meet the requirements of soundness and

thoroughness of data management practices and standards that were established in the Master

Test Plan. SBC then selected the January, February and March 2002 period as the evaluation

period for testing by BearingPoint. Not surprisingly, because of the substantial difficulties that

BearingPoint encountered in attempting to replicate SBC's data covering that period,

BearingPoint was forced to abandon this approach and target SBC's July, August and September

data months for examination.[20] Notably, this was BearingPoint's *fourth* attempt to evaluate

SBC's performance data.

44.   While BearingPoint's performance metrics audit was underway -- the

progress of which had been slowed significantly due to SBC's recalcitrance[21] -- SBC unilaterally

retained E&Y to conduct two attestation examinations that would purportedly evaluate the

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[20] Michigan Report at 7.

[21] *See, id.* at 16 (noting that "early in the testing process the Commission observed obstinance on the part of SBC in addressing the inadequacies which BearingPoint identified").

accuracy and completeness of SBC's performance data for March, April and May 2002, as well

as SBC's system of controls used to calculate performance results generated during that same

period. On July 30, 2002, SBC filed before the MPSC a Notice of Intent to Supplement the

Record in which it advised the MPSC and interested parties that it intended to submit an

"independent audit" of SBC's Michigan Performance Measurements performed by E&Y.[22] The

E&Y Notice accompanied SBC's Supplemental Notice of Intent to File Application Under

Section 271 of the Telecommunications Act of 1996, and its Notice of Intent to Request Draft

Final KPMG Test Report. The latter two notices stated that SBC planned to file an application

with this Commission under Section 271 of the Telecommunications Act of 1996 "during the

fourth quarter of this year," and, to that end, it intended, at the end of August, to request a draft

final test report from BearingPoint with respect to the PPR, TVV and PMR tests.

45. In the E&Y Notice, SBC stated that it had engaged E&Y to conduct a

"separate, independent" assessment of the accuracy and reliability of its performance

measurement reporting systems and processes to "supplement the record on this issue."[23] SBC

asserted that it had engaged E&Y because it did not expect BearingPoint to complete its work for

the Metrics Data Integrity (PMR4) and Metrics Calculations and Reporting (PMR5) portions of

the Performance Metrics Audit Test by the time it planned to submit its performance results to

the MPSC. *Timing*, as SBC acknowledged, was the *sole* reason for retaining E&Y. Ironically,

however, any delays in the audit process were largely of SBC's own making. Not only did

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[22] SBC Ameritech Michigan's July 30, 2002 Notice of Intent to Supplement the Record (the "E&Y Notice").

[23] E&Y Notice at 1.

SBC's error-ridden data and systems cause much of the delay, but SBC was also inexplicably slow in providing the data necessary for BearingPoint to conduct its analysis.

46.   At bottom, SBC's retention of E&Y was nothing more than a thinly disguised attempt to do an end-run around the BearingPoint test. Indeed, it is ironic that SBC resorted to the E&Y audit: it was SBC that proposed that the third-party test should be modeled on a "military style" test; it was SBC that proposed the hiring of BearingPoint to oversee the tests in Michigan and its other four states; it was SBC that proposed the performance measurements that were being used by BearingPoint in the OSS test; and it was SBC that supported the adoption of the Michigan Master Test Plan. The only things that had changed were that BearingPoint's testing had proceeded slowly because of SBC's own delays and SBC's own performance monitoring and reporting systems had been exposed as inaccurate and unreliable. Thus, SBC's request to "supplement" the record with the E&Y audit was nothing more than a transparent attempt to escape from BearingPoint's negative findings.

47.   Furthermore, the very selection of E&Y raises serious concerns regarding E&Y's "independence." BearingPoint was selected in an open, consensual process. In contrast, SBC hired E&Y unilaterally, and other parties to the proceeding were simply "informed" of E&Y's selection and subsequent activities only *after* 60% of E&Y's work was completed. During a meeting on August 21, 2002, CLECs were permitted to ask questions about the contours of the E&Y engagement. However, this meeting was not designed to serve and did not serve as a collaborative discourse about the appropriate scope of E&Y's examination. Rather, in

this meeting, E&Y and SBC simply advised the CLECs regarding the nature of the work that

E&Y was performing.

48.   Notably, E&Y also serves as SBC's financial auditor. In commenting on

the selection of E&Y to conduct the Section 272(d)(2) biennial audit of SBC's operations in

Kansas, Oklahoma and Texas, the Public Utility Commission of Texas expressed its own

"concerns" about the selection of E&Y, stating:

> The Texas PUC has some concerns about the "independence" or neutrality of the
> auditor selected. Ernst & Young, the auditor selected, is the financial auditor for
> SBC. Though this audit was performed by individuals who are not part of the
> SBC financial audit group, the question of true independence, in the sense of
> neutrality and lack of bias, arises.[24]

The concerns expressed by the TPUC regarding E&Y's selection as an auditor for Section 272

purposes apply with equal force here.

49.   Additionally, the Master Test Plan was the result of an open, collaborative

process, and BearingPoint's Project Plans have been regularly published and updated. However,

to the extent that E&Y had a Master Test Plan, it was cloaked in secrecy, and the parties had

extremely limited access to E&Y's workpapers.

50.   Over the objection of AT&T and other parties, the MPSC approved SBC's

request to supplement the record with the E&Y audit. BearingPoint issued an interim draft report

on its OSS test on September 23, 2002. BearingPoint updated that report on October 30, 2002.

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[24] Comments of the Public Utility Commission of Texas, *In the Matter of Accounting Safeguards Under
the Telecommunications Act of 1996: Section 272(d) Biennial Audit Procedure*, CC Docket No. 96-150,
dated January 30, 2003 at 6.

At the time BearingPoint issued its October 30, 2002 report, "[n]early half of the applicable

BearingPoint testing criteria for . . . [the metrics] test remained in a 'Not Satisfied' [136 test

points] status and determinations on another 40% of the criteria [108 test points] were as yet

undetermined."[25] Indeed, BearingPoint has still been unable to complete the metrics portion of

the OSS test because its work on PMR4 and PMR5 (described below) continues to generate

exceptions and observations. These open exceptions and observations demonstrate that SBC's

performance monitoring and reporting systems remain error-ridden.[26]

51. Disturbingly, the progress of the BearingPoint audit has been delayed, in

significant measure, because of SBC's own conduct. The Observation and Exception status calls

are one of the principal vehicles for discussing and resolving issues regarding outstanding

observations and exceptions. However, SBC, during these calls, has repeatedly deferred

discussion of BearingPoint's observations and exceptions.[27] SBC's repeated requests to defer

discussion of open observations and exceptions introduce unnecessary and interminable delays in

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[25] Michigan Report at 7.

[26] "An Observation will be created if [BearingPoint] determines that a test reveals one of Ameritech's practices, policies, or systems characteristics might result in a negative finding in the final report. An Exception will be created if [BearingPoint] determines that a test reveals one of Ameritech practices, policies, or systems characteristics is not expected to satisfy one or more of the evaluation criteria defined for the test." MTP, App. C, Tab 20 at 5.

[27] See, e.g., Open Observations Status Report, as of January 28, 2003 (Observation 429 (noting that SBC deferred discussions of this observation on May 7, May 14, May 29, June 4, June 18, June 25, July 2, July 9, November 5, November 12, November 19, November 26, December 3, 2002; and January 14, January 28, 2003); Observation 461 (noting that SBC deferred discussion on May 14, May 21, May 29, June 4, June 12, June 18, June 25, July 2, July 9, July 23, August 6, August 13, August 27, September 10, September 17, September 24, October 1, October 8, October 22, October 29, and November 19, 2002); Observation 570 (noting that SBC deferred discussion on July 23, July 30, August 6, September 24, October 1, October 8, October 22, October 29, November 5, December 3, December 17, 2002; and January 7, January 21, 2003)).

the audit process. These delays should be seen for what they are: an attempt to delay completion

of the BearingPoint test which has already unearthed a kitchen-sink variety of defects in SBC's

performance monitoring and reporting systems.

52.   In its Application, SBC seizes upon the E&Y audit as proof of the

accuracy of its data. However, as noted above, E&Y's selection as the independent auditor raises

serious concerns, and SBC's selection of E&Y was simply an effort to bypass the BearingPoint

audit. In all events, for the reasons discussed below, the E&Y audit is procedurally flawed, and

the compliance work conducted by E&Y is equally deficient. However, even E&Y's deficient

audit reports reveal that SBC's performance data are replete with errors which have yet to be

remedied. Thus, contrary to SBC's assertions, these audits cannot legitimately be relied upon as

proof that SBC's data are accurate and reliable.

A.   **The BearingPoint Audit Demonstrates the Invalidity and Unreliability of SBC's Data.**

53.   SBC concedes that the BearingPoint performance metrics review is

incomplete and that it has not yet successfully satisfied the test criteria for this audit. Indeed,

SBC admits that BearingPoint's October 30 Report noted that, during the PMR test, 136 test

points were "Not Satisfied," and that 108 test points are "Indeterminate."[28] As of February 4,

2002, there were 15 open exceptions and 88 open observations in the PMR test. In its

Application, SBC attempts to dismiss these failings and insists that "none of BearingPoint's

findings thus far are sufficient to warrant a finding of noncompliance, or preclude the

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[28] Ehr Aff. ¶ 236.

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Commission from evaluating compliance based on the totality of the information before it."[29]

SBC's arguments cannot withstand scrutiny.

a. PMR1 Test

54.   The PMR1 test assesses "the adequacy and completeness of key policies and procedures for collecting and storing performance data" and the extent to which SBC's "operations are consistent with the policies and procedures."[30] During this test, BearingPoint has examined and is examining the following criteria: (1) whether the "[m]etrics data collection and storage processes have complete and up-to-date documentation"; (2) whether the documentation for technical requirements and data processes is complete; (3) whether procedures exist to assure adequate capacity for collecting and storing performance data; (4) whether "[m]etrics data processing procedures include adequate controls and edits to assure accurate metrics calculation and reporting"; (5) whether procedures exist to assure regularly scheduled back-ups of key data; (6) whether data have been retained in accordance with regulatory requirements; and (7) whether procedures exist to assure that access to performance data are restricted to authorized personnel.[31] During the PMR1 test, each of these seven criteria is applied to 18 performance measurement families. As SBC concedes, during the Michigan PMR1 test, SBC *failed 72* of the 126 test criteria in the PMR1 test, and the remaining test criteria were found to be "Indeterminate."[32] However, SBC contends that: it has addressed many of BearingPoint's

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[29] *Id.* ¶ 235.

[30] MTP at 23.

[31] *See, e.g.* BearingPoint OSS Evaluation Project Report, October 30, 2002 ("BearingPoint Michigan Report") at 226-229.

[32] Ehr. Aff. ¶ 234. An "Indeterminate" finding means that "[i]nsufficient evidence has been collected to

findings; other findings have no real impact on its published reports; and it fully expects to pass

the remaining test criteria in the PMR1 test. SBC's arguments are wide of the mark.

      (i)   **Test Criteria 1 and 2 (Documentation of Data Collection, Storage Processes and Technical Requirements)**

      55.   SBC contends that the "Not Satisfied" findings for test criteria 1 and 2

were based upon BearingPoint's determination in Exception 20 that the documentation

surrounding data collection and storage procedures which SBC initially provided to the auditor

was incomplete and inadequate.[33] SBC further contends that it has supplemented this

documentation, and that "[o]n August 21, 2002, BearingPoint determined that 'a complete' set of

documentation had been provided."[34] Noting that BearingPoint is currently in the process of

reviewing "over 6,000 pages of updated performance measurement documentation,"[35] SBC

asserts that this Commission should find solace in SBC's expectation that the "remaining test

points will be found 'Satisfactory' by end of the second quarter of 2003."[36] SBC's arguments are

meritless.

      56.   As a preliminary matter, SBC's hopeful expectations that BearingPoint

will ultimately find that it has satisfied test criteria 1 and 2 in the PMR1 test have no probative

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(footnote continued from previous page)
determine a result." *See* BearingPoint Michigan Report at 10.

[33] *Id.* ¶ 249.

[34] *Id.*

[35] *Id.*

[36] *Id.*

value in the context of this proceeding.[37] Furthermore, as BearingPoint has explained, it has not

yet determined whether SBC's supplemental documentation "is completely accurate" or omits

pertinent information. During hearings, BearingPoint explained precisely what it meant when it

stated that SBC had provided a "complete" set of documentation, stating:[38]

> MR. CONNOLLY: In Section 1 of the test description and methodology section
> of the report you indicate that you've received a complete set of data flow
> diagrams and data element maps as of August 2002. Is that to the best of your
> knowledge that you've received them all?
>
> MR. ERINGIS: When we used the term "complete," what we meant was based
> on our understanding of what we were expected to receive. *The term "complete"*
> *was not meant to represent that it was completely accurate, complete without any*
> *omissions. It just meant that we were expecting data flow diagrams and data*
> *element maps to be received for all of the performance measures and that by that*
> *time we had received a document or documents which represented a complete set*
> *of a fulfillment of a data request, if you will.*

Thus, notwithstanding SBC's suggestions to the contrary, BearingPoint has not yet determined

whether SBC's supplemental documentation is accurate.

       57.   Additionally, SBC has advised BearingPoint that it has changed the data

flows for certain measurement groups and "measures previously reported out of MOR/Tel system

have been moved to the ICS/DSS system."[39] In this regard, SBC advised BearingPoint that:

> •   All ordering measures that had been reported out of the MOR/Tel system
> have been moved to the ICS/DSS system.[40]

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[37] *Ameritech Michigan 271 Order*, ¶ 55.

[38] Transcript, October 14, 2002, Case No. U-12320 (MPSC) at 5168 (emphasis added).

[39] BearingPoint Illinois OSS Evaluation Report, December 20, 2002 ("BearingPoint Illinois Report") at
38. *See also id.* at 18.

[40] *Id.* at 38.

- [T]here will be a change in data flow for PM 14, PM 15, PM 16 and PM 19 in this [Billing] measure group between December 31, 2002 and April 10, 2003.[41]

- [T]here will be a change in data flow for PM 21.1, PM 22, PM 24 and PM 25 in this [Miscellaneous Administrative] measure group on February 10, 2003.[42]

- [T]here will be changes in the data flow for several performance measures in this [Interconnection Trunk] measure group in the second quarter of 2003. The ICS/DSS system will replace some of the manual processes used to collect and report these measures.[43]

- [T]here will be changes in the data flow for several performance measures in this [Directory Assistance/Operator Services] measure group. The change is expected to be implemented on January 31, 2003.[44]

- [T]here will be changes in the data for several performance measures in this [911] measure group. The changes are expected to be implemented in the first quarter of 2003.[45]

- [T]here will be changes in the data flow for several performance measures in this [Poles, Conduits, and Rights of Way] measure group. The changes were expected to be implemented on December 31, 2002.[46]

- [T]here will be changes in the data flow for the performance measures in this [Directory Assistance Database] measure group. The changes were expected to be implemented on December 31, 2002.[47]

- [T]here will be changes in the data flow for several performance measures in this [NXX] measure group. The changes will be implemented on February 10, 2003. The ICS/DSS system will replace some of the manual processes used to collect and report these measures.[48]

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[41] *Id.*

[42] *Id.* at 39.

[43] *Id.*

[44] *Id.*

[45] *Id.* at 40.

[46] *Id.* at 41.

[47] *Id.*

[48] *Id.* at 42.

● [T]here will be a change in the data flow for PM 120 and PM 121 in this [Bona Fide Requests] measure group on May 10, 2003. The ICS/DSS system will replace some of the manual processes used to collect and report these measures.[49]

● [T]here may be a change in the data flow for several performance measures in this [Facilities Modifications] measure group. BearingPoint is expecting SBC Ameritech to provide an implementation date as well as updated documentation for this change.[50]

● [T]here will be changes in the data flow for several measures in this [Other Measures] measure group. The ICS/DSS system will replace some of the manual processes used to collect and report these measures.[51]

58.   Most recently, in Illinois, BearingPoint has stated that it is still in the process of determining the impact of these changes on the analysis of the affected measurements.[52] In light of these developments and the ongoing audit process, SBC's expectations that it will satisfy test criteria 1 and 2 in PMR1 are nothing more than wishful thinking.

(ii)   Test Criterion 4 (Data Controls and Restatements)

59.   With respect to test criterion 4 in PMR1, BearingPoint found that "[b]ased on an assessment of metrics procedures and the frequency of restatements to date . . . [t]he metrics data processing procedures do not include adequate controls and edits to ensure accurate metrics calculation and reporting."[53] These failings are addressed in Exception 20 which remains open.

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[49] *Id.* at 42.

[50] *Id.* at 43.

[51] *Id.*

[52] *Id.* at 38-43.

[53] *See e.g.,* BearingPoint Michigan Report, PMR1-4-A at 227.

60.   In Exception 20, BearingPoint found that SBC "continuously restates results as a normal course of business," and that, during the evaluation period, results "were restated for over a quarter of the measures . . . ."[54] BearingPoint also found that the inadequacies in SBC's controls, documentation and procedures "are resulting in inaccurate performance metric reporting which requires frequent restatements of posted performance measurement results."[55]

61.   SBC insists, however, that in reaching its determination, BearingPoint failed to consider the "materiality" of SBC's restatements -- *i.e.* whether the restatement would cause performance results to change from a pass to a failure or vice versa. SBC contends that, when its restatements are viewed in that context, its "material restatement rate for January through November 2002 results is less than 1% of its reported results."[56]

62.   SBC also contends that "BearingPoint relied primarily on the number of 'restatements' of results prior to November 2001," and that "[s]ince then [it] has implemented numerous enhancements to controls that reduce the need for performance measure restatements going forward."[57] For these reasons, SBC claims that any past concerns regarding the instability of its data as reflected in its restatements should now be put to rest. SBC is wrong.

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[54] BearingPoint Exception 20, dated November 30, 2001 at 2.

[55] *Id.* at 3.

[56] Ehr Aff. ¶ 253. In calculating its material restatement rate, however, SBC inflated the denominator of the calculation by including submeasures as to which no data had been reported in a given month. Transcript, October 15, 2002, Case No. 12320 (MPSC) at 5141.

[57] Ehr Aff. ¶ 262.

63. SBC's definition of a "material" error warranting restatement is ill-conceived. SBC's "materiality" test masks the cumulative effect of multiple flaws in a measure. Moreover, a significant system flaw may not have a substantial impact on performance results for any number of reasons, including low order volumes in a given month. However, the same system flaw may adversely impact the success/failure result of a metric in other months when orders have increased. In all events, SBC bears the burden of demonstrating that its data are error-free; and all errors in SBC's reporting processes are critical to that analysis.

64. Furthermore, notwithstanding SBC's suggestions to the contrary, the frequency and number of SBC's corrections and restatements of its performance data illustrate that its performance data are unstable. As the Department of Justice observed before BellSouth withdrew its initial Georgia/Louisiana application, a consistent pattern of restatements "makes it difficult to conclude that these data accurately depict [a BOC's] performance and can be relied upon to establish benchmarks for future performance."[58]

65. SBC's restatements have affected scores of measures covering numerous months. As Table 1 shows, during the period from May through December, SBC restated performance results for 907 measures.

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[58] *Georgia/Louisiana 271 Proceeding*, DOJ Eval. at 34.

Table 1

Number of Performance Measures Restated

Results Month	Restatements Made In								
	May	June	July	August	September	October	November	December	Total
March	4	7	7	7	22	62	1	21	**131**
April			49	24	37	63	1	23	**197**
May				26	40	59	9	22	**156**
June				23	40	64	2	22	**151**
July					22	70	2	36	**130**
August					1	15	2	56	**74**
September						1	0	58	**59**
October								9	**9**
Total	**4**	**7**	**56**	**80**	**162**	**334**	**16**	**247**	**907**

66.   Indeed, the performance results for certain data months have been restated

multiple times. As the table demonstrates, SBC has restated its March 2002 results in every

month from May to December 2002. Similarly, SBC's April 2002 results were restated in July,

August, September, October, November and December 2002. SBC's May and June 2002 results

were restated in August, September, October, November and December 2002. The mere fact that

SBC has been required to restate the same data for a given month time and time again

demonstrates that SBC's data simply cannot be trusted.

67.   Even a cursory examination of Table 1 shows that SBC's assertion that its

system enhancements implemented since November 2001 have reduced the need for restatements

is not credible. In August 2002, SBC restated prior results for 80 measures. The number of

metrics that SBC restated in September 2002 doubled to 162 measures, including corrections to

22 measures in SBC's March results (which had been the subject of four prior restatements). In

October 2002, the number of restatements doubled once again when SBC restated its

performance results for 334 measures, including restatements to 63 measures in its April results

(which previously had been restated multiple times). Although 16 measures were restated in

November, SBC's December 2002 restatements increased dramatically and affected 247

measures.

68.   Table 1 reflects the *number of measures* that were restated. It must be

emphasized that, in many cases, the same performance metric is restated for more than one

reason in a given month.[59] Table 2 below shows the total number of restatements for previously

reported data, including multiple restatements for dozens of measures. As Table 2 shows, from

May through December 2002, SBC issued 1,623 restatements to its performance data.

Table 2
Number of Restatements to Performance Data

Results Month	Restatements Made In								
	May	June	July	August	September	October	November	December	Total
March	4	8	7	7	22	144	1	21	**214**
April			57	33	48	151	1	23	**313**
May				36	85	180	9	22	**332**
June				33	83	185	2	22	**325**
July					22	186	2	45	**255**
August					1	21	2	73	**97**
September						1	0	76	**77**
October								10	**10**
Total	**4**	**8**	**64**	**109**	**261**	**868**	**17**	**292**	**1623**

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[59] Thus, for example, SBC's October 7, 2002 restatement states that "[d]ue to a PM reporting system problem, PM 5 'tails' LSOG data was not correctly combined and calculated." The October 7 restatement also notes that SBC's performance results for PM 5 "included 16 Access Service Requests that shall not have been included in the results [and that] flag indicator problems caused ULT orders to be underreported." Similarly, in the October 7 restatement, SBC noted that performance results for PM 29 for certain months were restated because: (1) SBC erroneously classified dispatch orders as non-dispatch orders; (2) "[a] PM reporting system coding problem resulted in erroneous Michigan Metro Area mapping"; and (3) cancelled orders were erroneously included in the data. The October 7 restatement also reveals that performance results for Performance Measurements 43-50 were restated for certain months because: (1) "[a] PM reporting system coding problem resulted in erroneous Michigan Metro Area mapping for several wire centers"; (2) certain UNE-P orders were erroneously excluded from CLEC results; (3) a coding error resulted in the improper exclusion of UNE Loop & Port-ISDN PRI results; (4) certain UNE and interconnection trunk results were improperly excluded because of a coding problem; and (5) the reclassification of circuits to identify the product resulted in the recalculation of results.

69. Myriad problems which have plagued SBC's data collection, monitoring

and reporting procedures have resulted in inaccuracies in performance results and restated data.

A significant number of these restatements appear to relate to software errors (*i.e.* errors in

programming the business rules into the applications) that SBC has made in capturing and

reporting its performance results. These software coding errors have resulted in the improper

inclusion and exclusion of transactions and other inaccuracies in reported results.[60]

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[60] Web Site News as of January 6, 2003 ("[a] coding error caused an error in the way that the jeopardy results were calculated and in the way the changed due dates are identified for unsolicited FOCs."); *id.* ("[a] coding error affected the reporting of complete LSOG 5 UNE Loop, LNP and LNP with Loop June 2002 through October 2002 results for MI 9); *id.* ("[a] coding error caused the exclusion of Projects from June 2002 through October 2002 results for MI 13."); *id.* ("[a] coding error occurred that resulted in incorrect flagging of when trouble report completions were made available to CLECs and affected the way that June 2002 through October 2002 results were calculated . . ."); *id.* ("[a] coding error resulted in rejected and then corrected LNP orders to be incorrectly excluded from performance results for PMs 91 and 93 for June 2002 through October 2002."); Web Site News as of December 5, 2002 ("[d]ue to coding errors, Line Share and LNP Supplementary orders were not included in the September 2002 results for PMs 13 and 13.1"); *id.* ("[a] data coding error caused a number of trouble report records to be incorrectly identified and the misclassification of Winback orders" which "affected July 2002 through September 2002 results for PM 35, 37-42, 46, 52-54.1, 59, 65-69 and WI-2."); *id.* ("[a] coding error caused the ISDN Centrex line counts to be excluded from the Retail Line Count files"); Web Site News as of October 7, 2002 ("[a] PM reporting system coding problem resulted in erroneous Michigan Metro Area mapping for several wire centers"); *id.* ("a coding error excluded UNE Loop and Port-ISDN PRI records only from the May and June 2002 results for PMs 43-50, 52-54.1"); *id.* ("coding problem in processing one source system file"); *id.* ("[a] coding problem caused erroneous July 2002 performance results to be reported for PMs 55.1, 56-63); *id.* ("[a] coding error excluded Projects and caused an inappropriate data pull for June through August 2002 for PM 91"); *id.* (a coding error caused "incomplete EDI data to be used in the calculation of MI 2 for July 2002."); Web Site News as of September 5, 2002 ("[a] coding error was identified in April 2002 and May 2002 PM 5 results for electronically processed FOCs (< 2 hours benchmark)"); *id.* ("[a] system coding problem resulted in incorrect reporting of CLEC-caused rejects for PM 9 for September 2001 through June 2002"); *id.* (a "coding error resulted in the use of incorrect data elements to calculate December 2001 through June 2002 results for MI 2"); Web Site as of August 9, 2002 ("[a] coding problem caused UNE-P results for December 2001 through February 2002 not to appear on the CLEC website for PMs 10.4 and MI 2"); Web Site New as of July 5, 2002 (the results for PM 97 for January through March 2002 were restated because a program coding problem resulted in 10-digit trigger due dates being set incorrectly).

70.   Furthermore, a number of restatements have occurred because of

inconsistencies or errors in system design (*i.e.* the logic used to implement the business rules into

the SBC systems).[61] Other problems that have resulted in the restatements of performance results

include, *inter alia*, "[i]nternal performance measurement system processing problems";[62] data

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[61] Website News as of January 6, 2003 ("[a]n error in the processing logic caused standalone LNP orders to be tracked under the Resale disaggregation rather than the UNE disaggregation"); *id.* (the performance results for PMs 7 and 8 for August 2002 through October 2002 were restated because an error in processing logic caused "LSNP orders to be tracked in the same manner as LNP with Loop orders, thereby causing unnecessary misses in the performance measure results"); Web Site News as of December 20, 2002 ("[i]nconsistencies in processing logic application between two performance measurement data generating systems caused incomplete data to be used in calculating July 2002 through October 2002 results for the DSL linesharing disaggregations of PMs 59, 65, 65.1, 66, 67 and 69"); *id.* ("[e]rrors in the processing logic and application of the code for PMs 2, MI 10 and MI 16 caused a number of Pre-Order transactions to be excluded from results posted for November 2001 through September 2002."); *id.* ("[i]ncorrect processing logic that assigns ACNAs to a subset of trunks with 'JAAX' as part of the circuit ID was not properly applied."); Web Site News as of December 5, 2002 ("[i]nconsistencies in processing logic application between two performance measurement data generating systems caused erroneous line loss data to be used in calculating April 2002 and May 2002 results for MI 13"); Web Site News as of August 9, 2002 ("[t]he results for PM 73 from October 2001 through April 2002 reflected application of incorrect exclusion logic").

[62] *See* Web Site News as of December 5, 2002 (referring to such problems that caused incorrect report results for PMs 5 and 6 for April 2002 through October 2002); *id.* (referring to such problems which resulted in the application of the wrong rejection intervals for September 2002 results for PMs 10.2, 10.3, 11, 11.1 and 11.2); *id.* (noting that, "[a]n internal performance measurement processing system problem did not apply the required logic to the Transaction Indicator used to determine the Measurement Application Data for PMs 43-44, 55-55.1, and 56-56.1 for August 2002 and September 2002 results); Web Site News as of November 5, 2002 (noting that, as a result of a "performance reporting system processing problem, the August 2002 data for PM 18 was posted incorrectly"); Web Site News as of August 9, 2002 ("[a] system processing problem which caused line loss notifications to be resent was not properly represented in March 2002 results posted for PM MI 13"); Web Site News as of May 6, 2002 (noting that "[a] system processing problem resulted in the incorrect identification of a number of datapoints required for the calculation of April 2001 results for PMs 10.4, 27-33, 36, 43-45, 47, 50, 55, 55.1, 55.3, 56, 58, 60-63, 99, WI I and MI 2"); *id.* ("a system processing problem resulted in incomplete data required to calculate May 2001 results for . . . MI 2"); Web Site News as of April 5, 2002 (noting that "[a] system processing problem resulted in incomplete set of records being used to generate January 2002 results for several maintenance measures in Michigan"); Web Site News as of March 5, 2002 ("[a] system processing problem caused the truncation of monthly parity files for POTS Install data").

entry errors;[63] calculation errors;[64] improper classification of orders;[65] incorrect settings of

indicators in the performance measurement system;[66] and improper inclusions and exclusions of

data.[67] These deficiencies in SBC's processes crystallize this salient fact: SBC's performance

monitoring and reporting systems which have resulted in a veritable plethora of more than 1,600

restatements are not sufficiently stable to assure accuracy in reported results.

(iii) Test Criterion 6 (Data Retention)

71.   SBC concedes that BearingPoint rendered a "Not Satisfied" finding with

respect to test criterion 6 based upon Exception 19.[68] SBC claims, however, that during the past

year, it has: (1) undertaken a sweeping review of its source systems used to capture its

performance results; (2) revised its retention policies; (3) supplemented its documentation to

BearingPoint; and (4) advised BearingPoint "that 100 percent of the reported performance

measurement source system unique elements are retained in the manner specified by

BearingPoint to support their test methodology and in accordance with regulatory

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[63] *See* Web Site News as of August 20, 2002 (referring to data entry error for PM 111).

[64] *See, e.g.*, Web Site News as of January 21, 2003 (referring to ("[a]n incorrect formula [that] was applied" when calculating results for PM MI 14; Website News as of December 5, 2002 (referring to computation errors in results for PM 9; and improper inversion of numerator and denominator for PM 21.1).

[65] *See* Web Site News for October 7, 2002 (noting that dispatch/nondispatch orders were improperly classified for PMs 27-33 and 35).

[66] *See* Web Site News as of December 5, 2002 (referring to incorrect setting on indicators that resulted in misclassification of orders for PMs 55.1, 56, 56.1 and 58).

[67] *See* Web Site news as of November 5, 2002 (nothing that CLEC-caused misses were incorrectly included in PM 99; Website News as of October 9, 2002 (referring to incomplete EDI data in PM MI 2).

[68] Ehr Aff. ¶ 254.

requirements."[69] SBC argues that these corrective measures should ultimately result in a "satisfied" finding.

72. SBC ignores that, even after it presented its much-heralded supplemental information to BearingPoint, the auditor found discrepancies in SBC's supplemental documentation. In examining SBC's supplemental documentation, E&Y found that SBC's data retention policies in each of the 18 performance measure groups were in conflict with established regulatory requirements. BearingPoint also has found that source systems used to capture performance results are not identified as systems of record in SBC's supplemental documents, and that systems of record that SBC identified are different from the source systems listed in its documentation. BearingPoint has found that these discrepancies in source systems have affected the following measure groups: pre-ordering; ordering; provisioning; billing; miscellaneous administrative; local number portability; and directory assistance database.[70] Since BearingPoint is currently analyzing these discrepancies, it remains to be seen whether SBC satisfies test criterion 6 of PMR1 (*i.e.* whether data have been retained in accordance with regulatory requirements).

(iv) **Test Criteria 3, 5, 7 (Collection, Capacity and Retention)**

73. As to the remaining test criteria in PMR 1, BearingPoint has classified test criterion 3 (collection and storage processing capacity), test criterion 5 (data back-up procedures)

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[69] *Id.*

[70] BearingPoint Michigan OSS Report Test Reference PMR1-6-A at 228; Test Reference PMR1-6-B at 231; Test Reference PMR1-6-C at 234; Test Reference PMR1-6-E at 240-241; Test Reference PMR1-6-F at 243-244; Test Criteria PMR1-6-I at 253; Test Criteria PMR1-6-M at 266.

and test criterion 7 (access to data) as "Indeterminate" for all of the performance measurement

groups.[71] SBC suggests, however, that the remaining testing is largely irrelevant because any

findings rendered in connection therewith cannot possibly impact the reliability of the data in its

Application. SBC also contends that it fully expects to pass each of the remaining test points in

the second quarter of 2003.[72] However, these are nothing more than unfulfilled promises and

expectations that are entitled to no weight. For example, in Observation 668 opened on

September 26, 2002, SBC reported that it could not replicate SBC's reported results for

Performance Measurement 4 (OSS Interface Availability) because SBC "had overwritten the

original data used to calculate the posted results [and] there was no way to recover and provide

the original data used to calculate results for Performance Measurement 4."[73] BearingPoint

closed Observation 668 because there was no further testing that it could conduct to replicate

SBC's data for January 2002. The consequence of this failure is that BearingPoint must

determine if it can replicate the results for SBC's July 2002 data.

b. PMR3 Test

74. The PMR3 (Performance Measurement Change Management) assesses

SBC's "overall policies and practices for managing changes to metrics and for communicating

these changes to the MPSC and CLECs."[74] As SBC concedes, there are three open exceptions

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[71] Ehr Aff. ¶¶ 248, 255; *see also* BearingPoint Michigan Report at 225-281

[72] *Id.*

[73] BearingPoint Observation 668, dated September 26, 2002.

[74] BearingPoint Michigan Report at 26.

relating to PMR3 testing (Exceptions 41, 133, and 157). The performance data deficiencies that are addressed in these exceptions are neither trivial nor insignificant.

75. **Exception 41.** In Exception 41, BearingPoint found that SBC's "metrics change management process does not require the identification of changes to source data systems that impact metrics and the communication of those changes to relevant parties."[75] In that exception, which was issued on February 11, 2002, BearingPoint stated that, upon review of SBC's change management procedures manual, it discovered that SBC's "change management process does not provide for the monitoring and communicating of changes made to upstream data systems that impact metrics," and that "[u]pstream systems are the systems that come directly before and provide data to metrics reporting systems."[76] Furthermore, when BearingPoint interviewed SBC employees who are responsible for the systems used in calculating performance results, it found that "there are no requirements for communication between the owners of the OSS source systems and the owners of the metrics reporting systems about changes that impact metrics reporting."[77] Although SBC downplays the significance of these findings and insists that this exception has no real impact on performance results, its assertion is belied by BearingPoint's assessment. Indeed, in explaining the impact of the metrics deficiencies addressed in Exception 41, BearingPoint found that "[w]ithout communication between system owners, Ameritech personnel responsible for producing metrics reports may be

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[75] BearingPoint Exception 41, issued February 11, 2002.

[76] *Id.*

[77] *Id.*

unaware of changes made to such systems that impact metrics reporting," and that such lapses in

communication "may lead to incorrect reporting of performance measurement results."[78]

76.   **Exception 133.** In Exception 133, BearingPoint found that SBC "does not

have adequately defined procedures or tools to test changes to calculation programs, processes

and systems involved in the production and reporting of performance metrics."[79] As part of the

PMR3 test, BearingPoint interviewed SBC employees who are responsible for developing and

revising the programs, processes and systems relating to the production of performance data and

reviewed documentation to determine whether metrics programs, processes and systems are

tested prior to implementation. However, BearingPoint found that SBC's procedures and tools to

test changes to metrics programs, processes and systems are wholly inadequate. Moreover,

BearingPoint found that these deficiencies call into question the accuracy of SBC's performance

data "as presently reported," and "may also negatively affect SBC Ameritech's ability to

implement changes to these performance measurements in the future."[80]

77.   **Exception 157.** In Exception 157, BearingPoint found that SBC "did not

update the Metrics Business Rules on a timely basis from September 2001 through February

2002."[81] BearingPoint evaluated SBC's performance in updating its Metrics Business Rules

documentation in compliance with the change implementation dates established by the state

commission. However, BearingPoint found that certain business rules in SBC's Metrics

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[78] *Id.*

[79] BearingPoint Exception 133, dated July 1, 2002.

[80] *Id.*

[81] BearingPoint Exception 157, dated July 29, 2002.

Business Rules did not match those approved by the state commission, and that the changes to

SBC's Metrics Business Rules were not implemented in accordance with the schedule approved

by the state commission. Although SBC contends that these deficiencies are of no real

consequence, as BearingPoint aptly observed in discussing the impact of these problems,

"[f]ailure to update Metrics Business Rules documentation in accordance with documented

implementation dates and with the exact wording approved by the state commission may inhibit

the ability of a CLEC or regulator to perform timely and accurate analysis of metrics results."[82]

c. PMR4 Test

78.   The Metrics Data Integrity Verification and Validation Review (PMR4) test

conducted by BearingPoint -- perhaps the most important of all of the PMR tests conducted --

"evaluates the overall policies and practices for processing the data used by SBC Ameritech in the

production of the reported performance metrics and standards."[83] During this test, BearingPoint

assesses whether: (1) "[r]equired source records are included in data";[84] (2) inappropriate records

are included in the processed data which are used to calculate performance results; (3) the records

in the processed data which are used to calculate performance results are consistent with

unprocessed data from SBC's source systems; and (4) data fields in the processed data used to

calculate performance results are consistent with the unprocessed data from SBC's source systems.

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[82] *Id.*

[83] BearingPoint Michigan Report at 32.

[84] *See id.* at 306.

79.   BearingPoint has not completed the PMR4 test. Currently, there are nine

open exceptions[85] and 12 open observations.[86] SBC contends that the open exceptions and

observations in the PMR4 test are of no real significance.[87] SBC's assertions border on the

frivolous. The extraordinary number of these exceptions -- which cut across all of the critical

OSS functions -- alone demonstrates the absurdity of SBC's arguments. A few of these

exceptions are discussed below.

80.   **Exception 176.** SBC asserts that Exception 176 which is currently open

has "negligible" impact on performance results.[88] In Exception 176, BearingPoint found that

SBC's "March 2002 performance measurement data is missing daily usage feed (DUF) records

used in the calculation of Performance Measurement 19 ('Daily Usage Feed Timeliness')."[89]

Indeed, BearingPoint found that 667 of 1,799 CLEC DUF records were missing from SBC's

processed data that are used to calculate performance results. The 667 missing DUF records are

"category 11" records -- access usage data which are used by CLECs to bill interexchange

carriers for the provision of access. Relatedly, the MPSC also found that any reliance on

Performance Measurement 19 should "be made with caution" because of the defects in the data

identified by BearingPoint in Exception 176.[90]

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[85] The nine open exceptions are: 134, 174, 175, 176, 179, 181, 183, 184 and 185.

[86] The 12 open observations are: 584, 619, 638, 737, 757, 766, 767, 769, 770, 771, 772 and 783.

[87] *See, e.g.,* Ehr Aff. ¶ 235.

[88] Ehr Aff., Attachment P at 7.

[89] BearingPoint Exception 176, issued September 26, 2002 at 1.

[90] Michigan Report at 22.

81. Critically, in response to BearingPoint's Exception 176, SBC conceded that it "does not currently include category 11 records in calculating results for PM 19," and that it plans to "install new logic to include category 11 records in calculating PM 19 results in order to report December 2002 results in January 2003."[91] Although SBC admits that the overall volume of DUF files will increase dramatically once category 11 DUF files are included in performance results, it contends that the "[o]verall impact on reported results (percent made or missed) will be negligible."[92] SBC's assertion is nonsensical.

82. Because category 11 records are used to bill interexchange carriers for access services, the accuracy of such records and the timeliness of their receipt are extremely important to CLECs. Since, by SBC's own admission, the "volumes of DUF files will increase dramatically" when category 11 files are included in performance results and since the timeliness of category 11 records has yet to be measured, it is patently absurd for SBC to assert that the inclusion of such records will have no impact on reported results. Inasmuch as the performance data for Performance Measurement 19 in SBC's Application improperly exclude category 11 records, these data are inherently unreliable. And SBC's assertion that it has provided "CLECs parity service" for Performance Measurement 19 should not be credited.[93] As the Commission has properly recognized, a BOC cannot satisfy its OSS obligations until it proves that it provides accurate, complete usage data.[94] SBC's admission that it has, heretofore, excluded all category

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[91] SBC Response to Exception 176, dated November 22, 2002 at 2.

[92] Ehr Aff., Attachment P at 7.

[93] Ehr Aff. ¶ 54.

[94] *Second BellSouth Louisiana Order* ¶ 160.

11 data from its performance results for Performance Measurement 19 precludes such a finding.

Although SBC somehow believes that the data omissions are inconsequential, the exclusion of

category 11 records from DUF impedes a CLEC's ability to bill interexchange carriers for access

service.

83.   **Exception 181.** In Exception 181 issued on December 17, 2002,

BearingPoint found that SBC's "processed records for Performance Measurement 104.1 ('[t]he

average time it takes to unlock the 911 record') appear to be incorporated with the unprocessed

records for SBC Ameritech's source systems for the January 2002 reporting month."[95] Exception

181 calls into question the completeness and accuracy of the E911 databases. The E911 database

records should be traceable to (1) a service request to unlock issued by the end user's local

service provider; and (2) a service order to update the records by the new local service provider

which also locks the database entries to that local service provider.

84.   However, BearingPoint found 14 cases where the 911 database

administrator "unlocked" a record but could not locate an order (in MOR/Tel) that relates to the

unlock. BearingPoint also found 14 other orders that should have been, but were not, unlocked

(in the UNLOK report). BearingPoint also found three records in the data used to generate the

performance data that were not in UNLOK or MOR/Tel. This means that SBC is reporting in its

results orders that are completely missing from both source systems because there is neither an

order nor an unlock request.

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[95] BearingPoint Exception 181, dated December 17, 2002.

85.   SBC concedes that it "is in the process of developing [additional program code enhancements]" to "improve the match rate between unlock records and review order completion data"[96] that should be implemented with January 2003 results.[97] SBC claims, however, that its data errors should be of no real concern because Performance Measurement 104.11 (Average Time to Unlock the 911 Record) is simply a diagnostic measure. SBC's argument is nothing more than a red herring. The mere fact that a measure is diagnostic cannot and should not absolve SBC of its obligation to provide accurate data. In fact, the accuracy of performance data is critical in determining the appropriate parity or benchmark standards that should be established for diagnostic measures.

86.   **Exception 175.** On September 26, 2002, BearingPoint issued Exception 175, finding that SBC "is using incorrect data in its calculation of Performance Measurements 114 (Percentage of Premature Disconnects (Coordinated Cutovers)) and 115 (Percentage of Ameritech Caused Delayed Coordinated Cutovers) for the months of January through June 2002."[98] Although SBC claims that it has now taken corrective action and restated its results, BearingPoint has found that SBC's implementation of the metrics is inconsistent with the business rules. For example, BearingPoint pointed out in this exception that the business rules governing Performance Measurement 115 state that "[a] coordinated cutover is delayed if Ameritech is not ready within 'x' ... minutes after the scheduled cut time."[99] BearingPoint

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[96] Ehr Aff., Attachment P at 8.

[97] *Id.*

[98] BearingPoint Exception 175, dated September 26, 2002.

[99] *Id.*

observed that SBC "captures the CLEC call to the Local Operations Center as the start time" of a

hot cut instead of the actual cut time. In explaining the impact of this problem, BearingPoint

noted that "[u]se of inaccurate data in the calculation of a performance measure will lead to

inaccurate reporting of measure results.[100]

87.   **Exception 183.** In Exception 183 issued on January 14, 2002,

BearingPoint found that SBC's "performance measurement data appear to be missing interface

outage notifications used in the calculation of Performance Measurement MI 11 (Average

Interface Outage Notification").[101] In testing a sample of interface outage notifications that were

sent to the pseudo-CLEC, BearingPoint found that 12.7% were missing in SBC's performance

data. As SBC concedes in its Application, it has not responded to this exception, and it is

uncertain about the impact of this problem on its reported results.[102] Given these circumstances,

the absurdity of SBC's assertions regarding the lack of importance of this exception (as well as

other exceptions) in the PMR-4 test is self-evident.

88.   **Other Exceptions and Observations.** During PMR4 testing,

BearingPoint has issued other exceptions detailing the inadequacies of SBC's performance

monitoring and reporting processes. Thus, BearingPoint has found that:

- SBC incorrectly populated the product name field in the Regulatory Reporting System ("RRS") as "'UNKNOWN' for as many as 29,662 records" in the RRS

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[100] *Id.*

[101] BearingPoint Exception 183, issued January 14, 2002; *see also* BearingPoint Exception 174, dated September 23, 2002 (noting that SBC "is using incorrect data in the calculation of Performance Measurement MI 11").

[102] *See* Ehr Aff., Attachment P at 66.

table that "supports the reporting of 29 performance measures, all of which may have been affected by this error."[103]

- SBC's "processed records for Performance Measurement 20 ('Percentage of Requests Processed Within 30 Business Days') appear to be inconsistent with the unprocessed records for SBC Ameritech's source systems for the May 2002 reporting month."[104]

- SBC "appears to be missing troubles used in the calculation of seven (7) Maintenance and Repair Performance Measurements for the months of March, April and May, 2002."[105]

- BearingPoint is "missing Wisconsin orders used in the calculation of 8 Ordering Performance Measurements for the month of March 2002."[106]

89. Similarly, the numerous observations that are open in the PMR4 test belie SBC's claims that its data are trustworthy. Thus, for example, in Observation 584, BearingPoint found, *inter alia*, that SBC is incorrectly calculating its performance results for Performance Measurement 11 (Mean Time to Return Mechanized Rejects).[107] Although SBC claims that it has restated its performance results to correct these errors, BearingPoint has found that SBC's methodology erroneously reduces the average interval to return mechanized rejects.[108] Furthermore, although SBC dismisses the importance of this observation, in assessing the impact of this problem, BearingPoint observed that "[t]he timeliness of order reject response times must

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[103] BearingPoint Exception 134, dated July 1, 2002. The Performance Measures that may have been impacted by this error are: 43, 44, 45, 46, 47, 48, 49, 50, 55, 55.1, 55.2, 55.3, 56, 56.1, 58, 60, 61, 62, 63, 92, 96 and 97.

[104] BearingPoint Exception 179, dated November 25, 2002.

[105] BearingPoint Exception 184, dated January 14, 2003.

[106] BearingPoint Exception 185, dated January 14, 2003. The Exception refers to missing Wisconsin orders but states that the exception applies to Michigan as well.

[107] BearingPoint Observation 584, dated July 29, 2002.

[108] BearingPoint Observation 584, version 2, dated January 3, 2003, at 2.

reflect actual time durations in order for regulatory agencies and CLECs to rely upon published

results," and that "[i]nconsistencies between the reported system outages, the defined

requirements and the reported values create inaccurate and conflicting results which *cannot be*

relied upon by regulatory agencies and CLECs."[109]

90.   Other open observations in BearingPoint's PMR4 test underscore the lack

of merit in SBC's claims regarding the purported reliability of its data. For example,

BearingPoint has found that:

- SBC's January, February and March 2002 results for Performance Measurement 48 (Percent Ameritech Caused Missed Due Dates) are missing orders.[110]

- SBC's January, February and March 2002 results for Performance Measurement 2 (Percent Responses Received Within "X" seconds -- OSS Interfaces) are missing pre-orders.[111]

- SBC "appears to be using inaccurate data" to calculate Performance Measurement 114 (Percentage of Problem Disconnects (Coordinated Cutovers); 114.1 (CHC LNP with Loop Provisioning Interval), and 115 (Percentage of Ameritech Caused Delayed Cutovers.)[112]

- SBC's January, February and March 2002 performance data on Performance Measurement 59 (Percent Trouble Reports Within 30 Days of Installation) are missing orders.[113]

- There are discrepancies in processed and unprocessed data used to calculate Performance Measurement 119 (Mean Time to Repair) and Performance

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[109] *Id.*

[110] BearingPoint Observation 619, version 3, dated December 14, 2002.

[111] BearingPoint Observation 638, version 3, dated January 9, 2003.

[112] BearingPoint Observation 737, dated December 10, 2002.

[113] BearingPoint Observation 757, dated December 17, 2002.

Measurement IN 1 (Percent Loop Acceptance Testing Completed on or Prior to Completion Date).[114]

- SBC "appears to be using inaccurate data in the calculation of Performance Measurement 59 (Percent Trouble Reports Within 30 Days of Installation)."[115]

- There are inconsistencies in the unprocessed and processed records used to calculate performance results for Performance Measurement MI 10 (% Time-Out Transactions) and MI 16 (Percentage Rejects Query Notices).[116]

- SBC's data used to calculate ordering results omit Access Service Requests records for EELs and Dark Fiber.[117]

- SBC "appears to be using inaccurate data in the calculation of Performance Measurement 58 (Percent Ameritech Caused Missed Due Dates) for the months of January, February and March 2002."[118]

d. PMR5 Test

91.   The PMR5 (Metrics Calculation and Reporting) test assesses the processes that SBC uses to calculate performance results and the "consistency between the metrics business rules and the procedures used by SBC . . . to calculate metrics."[119] During this test, BearingPoint evaluates the following criteria: (1) whether the required disaggregated measures are included in reported results; (2) whether BearingPoint can replicate SBC's values; (3) whether SBC's implementation of the measure is consistent with the business rules governing the measure; and (4) whether SBC data exclusions are consistent with the business rules governing the measure.

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[114] BearingPoint Observation 766, dated December 20, 2002; BearingPoint Observation 767, dated December 20, 2002.

[115] BearingPoint Observation 769, dated December 20, 2002.

[116] BearingPoint Observation 770, dated December 20, 2002.

[117] BearingPoint Observation 771, dated December 20, 2002.

[118] BearingPoint Observation 772, dated December 20, 2002

[119] BearingPoint Michigan Report at 34.

92. As of February 4, 2003, there are two open exceptions (Exceptions 20 and

111), and one exception which has been "Closed Not Satisfied" (113).[120] As demonstrated in the

"Not Satisfied" findings, the underlying OSS problems have not been remedied. Additionally,

there are 76 open observations[121] (three of which were issued on January 30, 2003); and

numerous observations which were closed because there was "no further work" that BearingPoint

could do. In those cases where BearingPoint closed exceptions and observations because there

was "no further work that BearingPoint could do," the test failure recorded by BearingPoint has

not been corrected. Moreover, the exceptions and observations that are currently open in the

PMR5 test highlight the paucity of SBC's assertions regarding the trustworthiness of its data.

93. **Exception 111.** On May 20, 2002, BearingPoint opened Exception 111,

finding that the "[t]imeliness measures of Unbundled Network Element (UNE) Loop requests,

excluding UNE Loop and Port Combinations, are compared to retail results using dissimilar data

points creating incorrect comparison results relative to the timeliness of services provided."[122] In

examining SBC's maintenance and repair results, BearingPoint found that: (1) SBC was

subtracting "No Access" and "Delayed Maintenance" from the total duration for wholesale

results for Performance Measures 66 and 68 when the business rules permitted no such

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[120] In Exception 113, BearingPoint found that, "Ameritech's calculation of Performance Measure 2 ("Percent Responses Received within 'x' Seconds -- OSS Interfaces") for January - March 2002 does not follow the approved metrics business rules." BearingPoint Exception 113, dated May 21, 2002.

[121] The open Observations are: 429, 461, 468, 488, 492, 538, 547, 570, 584, 587, 594, 613, 622, 623, 624, 625, 627, 628, 630, 631, 633, 637, 639, 640, 642, 643, 645, 661, 664, 676, 677, 679, 684, 686, 687, 688, 697, 709, 710, 711, 717, 719, 720, 721, 725, 727, 729, 732, 738, 739, 741, 742, 743, 745, 747, 748, 749, 755, 756, 761, 763, 768, 776, 777, 778, 785, 786, 787, 791, 792, 793, 794, 796, 797, 798 and 800.

[122] BearingPoint Exception 111, dated May 20, 2002.

exclusions; and (2) SBC did not subtract "No Access" or "Delayed Maintenance" from its retail

results for Measures 67 and 68.[123]

94.   Importantly, BearingPoint also found that, with respect to wholesale

customers, SBC may assign a "No Access" code to wholesale transactions *"even in cases where*

no access to the wholesale customer's premises was required to address the reported problem"

and *"regardless of whether any attempt to gain access was made."*[124] To make matters worse,

BearingPoint also found that, if a wholesale customer agrees to a delay in repair, SBC "may

assign 'Delayed Maintenance' to the transaction, *even if the delay was caused* by SBC

Ameritech."[125] In stark contrast, BearingPoint found that, in handling retail repair requests, SBC

applies "No Access" only when the technician unsuccessfully has attempted to gain access to

customer's premises and the lack of access prevented the repair.[126] In this exception,

BearingPoint determined that SBC's implementation "cause[d] wholesale repair times to appear

relatively shorter, which inherently affects underlying data for PMs 66-68."[127]

95.   SBC's attempt to inappropriately subtract "No Access" and "Delayed

Maintenance" time is not limited to SBC Michigan. Birch Telecom and SBC's subsidiary

SWBT were ordered by the Texas Public Utility Commission in Project #20400 to reconcile PM

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[123] BearingPoint Exception 111, dated May 20, 2002 at 1; BearingPoint Exception 111, version 2, dated May 23, 2002.

[124] BearingPoint Exception 111, version 2, Disposition, dated May 23, 2002 at 4 (emphasis added).

[125] *Id.* (emphasis added).

[126] *Id.*

[127] *Id.*

67 (Mean Time to Restore) after Birch noted to the TPUC that Birch's internal repair records

showed significantly longer duration for tickets that required field work than the duration shown

in SWBT's records. Attachment 1 illustrates an example provided by Birch to the TPUC, which

demonstrates that an 18.5 hour trouble was calculated by SWBT (after its improper subtractions)

to have been repaired in 1.5 hours. The reconciliation is still ongoing and being monitored by the

TPUC.

96.   SBC, in an effort to diminish the importance of BearingPoint's findings,

states, *inter alia,* that it has proposed (and CLECs have not objected to) certain modifications to

the business rules governing the metrics to assure that "apples to apples" comparisons are made

by eliminating trouble tickets from both retail and wholesale performance calculations when no

access was the disposition of the ticket.[128] However, these most recent proposed modifications

to the business rules are beside the point. According to BearingPoint, SBC has effectively gamed

the process heretofore by assigning "No Access" to CLEC repair transactions even when a field

visit is not required and assigning "Delayed Maintenance" to CLEC repair transactions even

when the delay is attributable to SBC. Thus, Exception 111, on its face, confirms that SBC's

performance results for Measurements 66, 67 and 68 simply cannot be trusted because SBC has

improperly implemented these measures in ways that skew SBC's actual performance in its

favor.

97.   Furthermore, numerous open observations in the PMR5 test reveal that

BearingPoint has been unable to replicate SBC's data affecting scores of measures. These

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[128] Ehr Aff., Attachment P at 18.

observations are rife with examples of data errors, improper exclusions, and problems reflecting

improper implementation of the business rules that have rendered it impossible for BearingPoint

to replicate SBC's performance results. These open observations further underscore the

unreliability of SBC's data.

98.   Indeed, most recently, on January 30, 2003, BearingPoint opened three

new observations, two of which are based on its finding that it cannot replicate SBC's posted

results for August 2002 and September 2002 for Performance Measurement 105 (Percentage of

Requests Processed Within 35 Days) and 106 (Average Days Required to Process a Request).[129]

On February 4, 2003, BearingPoint opened Observation 800, finding that it could not replicate

SBC's July, August and September 2002 data for Performance Measurement 11 (Average

Interface Outage Notification) because SBC "did not delete all update notifications from its

edited data" and "[t]here was also an instance of a zero duration in July 2002's data, despite the

May 2002 implementation of the 1 minute minimum duration rule."[130]

99.   Significantly, the BearingPoint test is far from complete, and it is entirely

possible that new exceptions and observations will be opened. Additionally, BearingPoint's

inability to replicate SBC's posted results has tainted other aspects of the OSS test. In this

regard, BearingPoint reported that "[b]ecause the retail results as reported by SBC Ameritech

could not be validated, instead of the parity standard, BearingPoint used the benchmark of five

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[129] BearingPoint Observation 796 issued January 30, 2003; BearingPoint Observation 798, issued January 30, 2003. On that same day, BearingPoint issued Observation 797, finding that it could not replicate SBC's September 2002 results for Performance Measurement MI 5 (Structure Requests Completed Outside of Interval).

[130] Observation 800, dated February 4, 2003.

hours for the MTTR" in the TVV test.[131] There is no five-hour benchmark that has been

established by the industry. However, because of difficulties encountered in validating SBC's

retail data for parity comparison purposes, BearingPoint has resorted to "out of test" comparisons

during its OSS test. Thus, the problems with SBC's data during PMR testing have infected the

TVV test as well. Against this backdrop, there is no sound basis for SBC's conclusion that the

BearingPoint PMR test confirms the validity and reliability of its data.

B.   The E&Y Audit Does Not Demonstrate the Reliability of SBC's Data.

100.   Shrouding itself in the E&Y audit, SBC asserts that the E&Y audit is

probative evidence of the accuracy of its data. Contrary to SBC's claims, the E&Y audit does not

demonstrate that SBC's performance data are complete, accurate and reliable.

101.   As noted above, SBC's retention of E&Y was nothing more than a

transparent end-run around the ongoing BearingPoint audit that found that SBC failed numerous

test criteria in the PMR test. Clearly mindful of the substantial defects that BearingPoint had

uncovered during the PMR test, SBC retained E&Y to conduct a separate PMR test so that it

could, in effect, substitute E&Y's findings for the findings of the ongoing BearingPoint test. As

discussed above, the very selection of E&Y raises concerns regarding its "independence" as an

auditor. Furthermore, any notion that the E&Y audit validates the accuracy of SBC's

performance data is belied by: (1) the fundamental procedural and substantive defects in the

auditing process, including the lack of any military-style testing to verify that errors in SBC's

performance monitoring and reporting system were corrected; (2) E&Y's own reports which are

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[131] BearingPoint Exception 149, Disposition Report, dated December 17, 2002.

riddled with examples of deficiencies in the data monitoring and reporting processes that have

spawned inaccuracies in performance results which remain unremedied; and (3) the deficiencies

in SBC's performance monitoring and reporting system that E&Y failed to detect and

BearingPoint uncovered.

1.   The E&Y Audit Procedures Are Flawed.

102.   During the course of its engagements, E&Y issued a series of reports: (1)

Michigan Performance Measurement Attestation Compliance Report, dated October 18, 2002

("Compliance Report"); (2) Michigan Performance Measurement Attestation Examination

Controls Report, dated October 18, 2002 ("Controls Report"); (3) Michigan Supplemental Report

to the Compliance/Controls Report, dated October 18, 2002 ("First and Second Compliance

Controls Supplemental Reports")[132]; (4) a Compliance Report dated November 18, 2002; (5)

Michigan Performance Measurement Attestation Examination Report on the Status of the

Company's Corrective Actions, dated December 19, 2002 ("Corrective Actions Report"); (6)

Michigan Supplemental Report to the Corrective Actions Report, dated December 19, 2002

("December 19 Report"); and (7) Michigan Measurement Attestation Report on the Status of the

Company's Corrective Actions, dated January 14, 2003 ("January 14 Report").

103.   **Raw Data.** The E&Y audit (as well as subsequent work to verify the

corrective measures SBC has taken) cannot legitimately be relied upon as proof of the accuracy

of SBC's data because E&Y's audit is both procedurally and substantively flawed. Verification

of the accuracy of reported results requires a comprehensive evaluation of all elements in the data

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[132] This report was issued in conjunction with the December 19 report despite its date.

collection, monitoring and reporting processing streams. That examination necessarily involves

an assessment of the accuracy of the raw input data, as well as an assessment of a BOC's

obligation to apply correctly the calculations, formulas, and exclusions in business rules

governing the measures when calculating performance results. However, during its audit, E&Y

assumed that SBC's input raw data were accurate. Starting from that basic assumption, E&Y

then assessed whether, *inter alia*, SBC converted its input data into performance results that

complied with the metrics business rules.

104.　**Limited Test Criteria/Temporal Scope**. The E&Y audit was otherwise

limited in scope. Unlike the ongoing BearingPoint performance metrics audit, which is

examining five test criteria, the E&Y attestation engagements are limited to three tests: PMR1,

PMR4 and PMR5. Furthermore, E&Y tested SBC's March, April and May 2002 data, while

BearingPoint is currently testing July, August and September 2002 data.

105.　**Materiality**. In addition, the significant methodological deficiencies in

E&Y's purported auditing activities show that SBC cannot legitimately contend that the E&Y

audit confirms the validity and accuracy of its reported data. For example, the E&Y audit was

not designed to identify and has not identified all instances in which SBC improperly

implemented the business rules governing the metrics. During its testing, E&Y identified

"[e]xceptions to compliance with the Business Rules" only if they were deemed "material"

because they met one of the following two criteria:

　　　　a.　　the error, if corrected, would change the original reported
　　　　　　　performance measurement ("PM") result by five percent or more,
　　　　　　　or

b. the error, if corrected, would cause the PM's original reported parity attainment/failure or benchmark attainment/failure to reverse.[133]

106. Because of E&Y's flawed and misguided definition of "materiality," significant defects in SBC's reported data that do not meet E&Y's "materiality" test are not reported by E&Y. Under E&Y's approach, a substantial defect in SBC's data would go undetected if the volumes for the measure were sufficiently low that performance results would not be adversely impacted.

107. **Geographical/Pseudo-CLEC Testing.** Furthermore, unlike the BearingPoint audit, which is Michigan-specific and uses pseudo-CLEC transactions, E&Y "performed a five-state transaction test rather than [a] Michigan specific [test] and has not utilized pseudo-CLEC activity to test conclusions."[134] The failure of E&Y to perform independent calculations of measures based upon pseudo-CLEC data is a fundamental defect in audit design.

108. **Analytical Review.** During its audit, E&Y claims that it undertook an analysis of "volumes, fluctuations in results and reasons for parity or out-of-parity results for the period under examination."[135] However, E&Y's "analytical review" was woefully inadequate. Essentially, E&Y discussed those issues with SBC, listened to SBC's explanations and excuses for poor results, and then determined if the explanation was "reasonable." No additional testing

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[133] Dolan/Horst Aff., Attachment B, Compliance Report, Attachment A at 1.

[134] Michigan Report at 19.

[135] Dolan/Horst Aff., Attachment D at 6.

or corrective measures were required, and E&Y did not consult with any third parties for input on

the "reasonableness" of SBC's explanations.

109. AT&T has reviewed E&Y's "workpapers" developed in its review of

SBC's compliance with the business rules. Those workpapers contained records of the

"analytical reviews" that it describes in its First Compliance/Controls Supplemental Report:[136]

> For each PM reviewed, as identified in Appendix A, E&Y conducted an analytical
> review to evaluate the reasonableness of reported results. This review analyzed
> transaction volumes, fluctuations in results, and reasons for parity or out-of-parity
> results for the period under examination. The procedures performed for PM
> recalculation testing covered Master Test Plan Sections: PMR 4 and 5.

110. E&Y's analysis, as documented, consisted of questions raised by E&Y that

were the subject of discussions with SBC alone. The responses were not verified by E&Y.

Indeed, SBC's responses were accepted at face value. At no time, did E&Y reject an SBC

response or ask further questions of SBC or of any other party.

111. **Performance Measurement Code.** E&Y's purported performance

measurement code reviews are equally infirm. During its audit, BearingPoint programs the

business rules into its computer programs that are internal to PM 5 (replication) testing.[137] In

stark contrast, during its audit E&Y staff read the programmed instructions within SBC's

software systems to determine whether they complied with the business rules. However, E&Y

should have written complementary programming logic that comports with the business rules, as

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[136] *Id.*

[137] *See* Ehr Aff. ¶ 261 (noting that BearingPoint independently replicates SBC's reported data by "using
calculation programs that BearingPoint developed to recalculate Michigan Bell's unfiltered, unprocessed
data.")

interpreted by E&Y, and processed the same transaction files used by SBC for calculating and

posting the measures. Any differences between the two sets of results would have been revealed

through this procedure. Code review -- the approach taken by E&Y -- is wholly ineffective in

testing the implementation of complex programming requirements.

112. **Outdated Source Systems.** Significantly, E&Y's opinions appear to be

based upon source systems that have since undergone significant changes. In its Second

Compliance/Controls Supplemental Report, E&Y stated that it followed the following procedure

during the data integrity test:

> For the PMs identified in Appendix A to the E&Y Report, E&Y validated the
> integrity of data used throughout the PM generation process by reviewing each of
> the significant applications where data originates, was stored, or was reported on
> PMs. For each application, E&Y identified the various transaction types and
> systems utilized that directly impact the reported PMs. Upon identification of
> transaction types, E&Y then determined how each transaction type was initiated,
> captured by the Company's Operations Support Systems (OSS), and processed
> through the Company's OSS and PM reporting systems. This process also
> identified where and how the Company applied the Business Rules to each
> transaction and which intermediate applications house specific PM information.
> Once the above information was obtained for each PM under review, E&Y
> created process flowcharts and activity dictionaries. The purpose of the process
> flows was to document E&Y's understanding of the data flow for each PM and
> each transaction type. The purpose of the activity dictionaries was to provide
> supplemental information regarding the process flows identifying critical controls
> and data inputs and outputs to each system utilized throughout the PM process.
> The procedures performed in developing the Process Flows and Activity
> Dictionaries are covered Master Test Plan Sections: PMR1 (data collection only),
> PMR4, and PMR5.[138]

113. However, SBC has admitted that it has modified many portions of its

performance reporting systems. In particular, SBC has broadened the scope of its ICS/DSS data

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[138] Dolan/Horst Aff., Attachment E.

collection which, in the past, has been primarily a system of record for data retention of

GUI/Web based pre-order/order transaction data. It is clear from the BearingPoint Illinois

performance measurement audit that SBC is now expanding the scope and use of ICS/DSS to act

as a system of record for EDI/LSOG 5 based transaction data.[139]

114. BearingPoint has not yet determined whether these system changes have

affected the integrity of SBC's data. BearingPoint has stated the following:

> BearingPoint is performing a review of data transfer procedures from Web
> Verigate, EDI LSOG 4, EDI LSOG 5, CORBA, and Loop Qualification Host into
> the ICS/DSS system to determine if the ICS/DSS system should be included as a
> system of record in the analysis for this measure group. Based on the outcome of
> this analysis, BearingPoint will complete its evaluation of whether SBC
> Ameritech has procedures in place for retaining metrics data for these systems.[140]

115. BearingPoint is in the process of conducting PMR testing to assess the

integrity of SBC's data in light of these system changes. Thus, it is possible that BearingPoint

could determine that its prior PMR findings which were deemed to have passed under the

outdated systems of record now fail. More fundamentally, since SBC's systems of record have

undergone significant change and E&Y's analysis is based upon an outdated systems of records,

these developments confirm that E&Y's conclusions regarding the integrity of the data are

untrustworthy. To be sure, SBC cannot seriously contend that E&Y's audit validated the

integrity of its current data, if E&Y did not review the systems that are currently in place.

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[139] *See, e.g.,* BearingPoint Illinois Report at 18, 38.

[140] *See id.* at 38.

116. **Interpretations of Business Rules.** The E&Y audit is also deficient

because E&Y accepted without challenge SBC's erroneous applications of the business rules. In

this regard, in its Compliance Report, E&Y rendered the following qualified opinion regarding

SBC's compliance with the business rules governing the metrics:

> In our opinion, considering the Company's interpretations of the Business Rules
> described in Attachment B [of the E&Y Report] and except for the material
> noncompliance described in Attachment A [of the E&Y Report], the Company
> complies, in all material respects with the Business Rules during the Evaluation
> Period.[141]

117. Attachment B to the E&Y Compliance Report identified 49

"interpretations made by management" in implementing the business rules governing the

measures. However, E&Y blindly accepted without critique or analysis SBC's "interpretations"

even though SBC's interpretations were inconsistent with the business rules governing the

metrics.[142] Indeed, E&Y's findings relied on prospective changes to the business rules that the

CLECs never agreed to and which were not approved by the MPSC.

118. The mere fact that E&Y accepted SBC's misguided "interpretations" of

the business rules governing the measures provides further confirmation regarding the

unreliability of E&Y's audit findings. For example, E&Y accepted, without challenge, the

following SBC "interpretation" of Performance Measurement 91 (Percentage of LNP Only Due

Dates Within Industry Guidelines):

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[141] Dolan/Horst Aff., Attachment B at 1.

[142] *See, e.g.* Ehr Aff. ¶ 221 (noting that E&Y "did not express a negative opinion" regarding the 49 "interpretations made by management").

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For purposes of applying the exclusion for CLEC-requested due dates outside of industry guidelines, the Company treats all NXXs as if they were previously opened. Thus the standard interval is three days. Therefore, anything outside of four days or more is considered a CLEC-requested due date outside the industry guidelines and is excluded from the PM.[143]

119.   E&Y contends that "[c]hanges have been discussed, agreed to and applied to the business rules to exclude any requested due dates greater than three business days and eliminate differentiation based on status of the NXX and the reference to the standards as established by NANC."[144] However, the CLECs never agreed to this "interpretation." During the six-month review, Performance Measurement 91 was changed to reflect the same installation guidelines for LNP only orders that are used for other product types. The measure will assess whether installations are completed within the customer-requested due date as long as the due date is three days or longer. Under this measure, an order with a customer-requested due date that is four days or longer should be included, not excluded, from the calculation. Thus, E&Y should not have blindly accepted SBC's "interpretation" of PM 91, which called for the exclusion of orders with a due date longer than four days. And E&Y is simply wrong when it asserts that CLECs have agreed to SBC's erroneous interpretation.

120.   Critically, BearingPoint opened 14 observations covering 20 different performance measures because of SBC's failure to comply with the business rules governing the metrics. Remarkably, E&Y reached a contrary finding and concluded that SBC's data were fully compliant. Attached as Attachment 2 is a table that identifies the 14 observations at issue. The

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[143] Dolan/Horst Aff. Attachment H (Attachment B - Interpretations), Interpretation No. 28 at 9.

[144] *Id.*

failure of E&Y to detect these discrepancies underscores the unreliability of the E&Y audit.

Each of these observations remains unresolved because SBC has not yet implemented a

corrective action plan for these measurement defects.

2.   Deficiencies in Corrective Action Reports.

121.   E&Y purportedly tested the accuracy of SBC's reported performance

results for the months of March, April and May, 2002. However, in its Compliance Report, E&Y

gave a highly qualified opinion.

122.   The E&Y Compliance Report identified numerous examples of

deficiencies in the data as to which corrective action should be taken. In its Application, SBC

contends that it has made great progress in addressing the 130 issues identified in E&Y's

Compliance Report and relies upon, *inter alia*, E&Y's December 19 Report and E&Y's January

14 Report in which E&Y purports to verify that SBC has taken the remedial steps noted therein.

However, the procedures that E&Y used ostensibly to verify that SBC had, in fact, taken the

necessary corrective actions are deficient.

123.   **Site Visits.** In its December 19 Report, in which it reports on its steps to

verify the corrective measures purportedly taken by SBC, E&Y notes that it visited only one SBC

site to investigate issues involving the Billing Center in Milwaukee.[145] However, E&Y's

Compliance Report identified performance data deficiencies that should have triggered visits to

other sites. In this regard, in its Compliance Report, E&Y found that SBC "did not have a

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[145] Dolan/Horst Aff., Attachment G at 2.

process in place to capture actual start times of coordinated cutovers during the Evaluation

Period for the frame due time ("FDT") level of disaggregation."[146] However, E&Y did not

conduct site visits at the dispatch centers or technical sites in central offices where loops are

provisioned to evaluate SBC's performance in this area. E&Y should have visited the work

centers that record the "actual start times" to review the methods and procedures used by

technical personnel to determine the "actual start time."

124. Similarly, although E&Y found in its Compliance Report that SBC "did

not properly identify customer-requested due dates during the Evaluation Period,"[147] E&Y did

not conduct site visits at the Local Service Centers to assess whether the practices and procedures

of a service representative properly reflected that "customer-requested due dates" are used when

reporting performance results.

125. **Process Review.** In its December 19 Report, E&Y contends that it

conducted a "process review" to assess whether SBC took appropriate remedial steps to cure the

deficiencies in its data that it identified in its Compliance Report. Indeed, E&Y only interviewed

"key Company subject matter experts"[148] and did not interview SBC's personnel who actually

performed the work. E&Y claims to have verified that the new procedures that SBC developed

resolved the deficiencies in the performance data; however, E&Y's report, on its face, does not

assert that the new procedures were actually used or that the new procedures were actually

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[146] Dolan/Horst Aff., Attachment B, Attachment A at 10.

[147] Dolan/Horst Aff., Attachment B at 13.

[148] *Id.*, Attachment G at 2.

incorporated into SBC's procedures. Moreover, E&Y did not test or perform regression testing

to ensure that a "fix" implemented in one part of SBC's systems did not trigger problems in other

parts of its systems. Indeed, there is no assurance that SBC's corrective actions, even as

"confirmed" by E&Y, have not had a negative impact on another part of SBC's processes or

procedures that were not examined by E&Y.

126. **Performance Measurement Code Reviews.** In its December 19 Report,

E&Y contends that it conducted code reviews to assess whether SBC resolved those problems

which were identified in the Compliance Report that required the implementation of

programming changes. E&Y states that it "examined the applicable changes to the computer

programming code that contained the Business Rules."[149] However, E&Y's Compliance Report

identified other issues that implicated programming other than the limited set examined by E&Y

(*i.e.* "programming code that contained the Business Rules").[150] The programming that should

have been tested to determine whether it functions properly is in the transaction processing

systems, which do not contain the business rules.

127. In that connection, SBC places its business rules programming in select

systems and not throughout its OSS and legacy systems. Because these are discrete systems, the

information provided from interfaces, OSS, legacy systems, and other systems must be coded

properly to enable the business rule system to operate effectively. In its Compliance Report,

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[149] Dolan/Horst Aff., Attachment G at 3.

[150] *See, e.g., id.,* Attachment B at 8.

E&Y detected deficiencies in SBC's reported results that required coding changes in business

rule applications, as well as other systems embedded within the SBC system architecture.

128.   For example, in its Compliance Report E&Y reported that "[c]ertain data

from one of the Company's source systems (EXACT) was improperly overlaying certain FOC

data within a PM reporting system resulting in some orders being reported with longer FOC

durations than actually occurred."[151] In order to resolve this problem, SBC had to take

appropriate remedial action with respect to the source system (EXACT) and the Business Rule

system. Because E&Y only "reviewed" the code in the Business Rule system, there is no

assurance that the change was made to EXACT to prevent the data from overlaying FOC data.

As a consequence, SBC's data for PM 5 ("Percent Firm Order Confirmations (FOCs) Returned

Within "X" Hours") will continue to be incorrect until the EXACT changes are implemented and

verified.

129.   In its Compliance Report, E&Y noted that "[n]ew missed appointment and

missed due date codes were implemented in January 2002," and that "E&Y did not verify that

this change was implemented."[152] In order to effect the changes necessary to resolve the

problems regarding improper codes that caused incorrect calculations in the performance

measurements, SBC Ameritech's legacy systems had to be changed to carry the new codes from

the provisioning processes through to the systems that reflect "these new codes in the numerator

of the PMs."[153] Because E&Y only examined the business rule systems, there is no assurance

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[151] Dolan/Horst Aff., Attachment B at 8.

[152] *Id.* at 8.

[153] *Id.*

that the missed appointment and due date codes were carried through to the OSS and legacy

systems, and no way to determine that the programming code in the business rule systems would

operate correctly with the new codes.

130. **Transaction Testing.** In its December 19 Report, E&Y states that it

applied "computer auditing techniques" when a mechanized system was found to be part of the

correction to a business rule defect.[154] However, E&Y's report is bereft of any explanation of the

techniques that E&Y purportedly used to test "the entire population of transactions to verify the

code changes."[155] E&Y's claim that it tested the "entire population of transactions" -- and did

not use samples of transactions for verification of code changes involving electronically

calculated and reported measurements -- is not credible. It is highly questionable that E&Y

would test these electronic measures using the hundreds of millions of transactions that comprise

the "entire population of transactions" to verify code changes when it used 8,500 transactions to

conduct its entire audit -- which included all of the 149 manual and electronic measures.

131. In discussing its mechanized measurement transaction testing, E&Y, in its

December 19 Report, simply states that it conducted queries to source data files and then

compared test results to SBC reports or detail files.[156] However, E&Y's report does not reveal

the number of queries or whether E&Y queried any number of transaction types, performance

measurements, or types of data. E&Y merely claims that it "executed queries to the source data

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[154] Dolan/Horst Aff., Attachment G at 3.

[155] *Id.*

[156] *Id.*

files."[157] E&Y's failure to explain the details of the measures it tested, the types of data it used

as the basis for its testing, the test months or periods it used, the system databases it queried, and

analytical methods renders it impossible to discern the bases for its conclusion that it performed

transaction testing.

3. Even the E&Y Audit Has Uncovered Defects in SBC's Data.

132.   Even if the E&Y audit were properly constructed -- and it is not -- SBC

cannot properly rely on that audit as proof that its data are accurate. Contrary to the clear

inferences SBC is attempting to draw, even the E&Y audit revealed significant deficiencies in

SBC's performance monitoring and reporting systems that contradict SBC's claims regarding the

accuracy and reliability of its performance data.

133.   In its Application, SBC notes that Attachment A to E&Y's Compliance

Report identified scores of "issues" reflecting deficiencies in SBC's data requiring restatements

or changes.[158] SBC contends, however, that E&Y's Corrective Action Reports confirm that SBC

has made great progress in resolving these issues. In fact, SBC claims that there are only "three

issues for which, as of December 19, 2002, corrective action was pending and the impact of

corrective action on reported results was not determined."[159] As to these three issues, SBC asserts

that any "impact on previously reported results (while not yet determined) is expected to be

minimal."[160] SBC's arguments are devoid of merit.

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[157] *Id.*

[158] Ehr Aff. ¶ 208.

[159] *Id.* ¶ 217.

[160] *Id.*

134.   E&Y's audit reports are littered with examples of deficiencies in SBC's

performance data which have not been corrected. Thus, for example, in its Compliance Report,

E&Y found that SBC improperly excluded orders involving projects from its performance results

for Performance Measurement 91 (Percentage of LNP only Due Dates Within Industry

Guidelines).[161] However, SBC admitted that, as of December 19, 2002, it "has not implemented

new computer programming changes to include projects from LSOG 4," and that implementation

of this coding change is expected to be implemented with February 2003 results.[162] Thus, SBC's

September, October and November 2002 performance results for Performance Measurement 91

are inaccurate.

135.   Similarly, in its Compliance Report, E&Y found that SBC was not

properly recording the actual start times for Performance Measurement 114 (Percentage of

Premature Disconnects/Coordinated Customers) and 115 (Percentage of Ameritech Caused

Delayed Coordinated Cutovers).[163] In its Corrective Actions Report, E&Y stated that, effective

with September 2002 results, SBC implemented an alternative method for capturing the start

times for coordinated cutovers.[164] However, E&Y cavalierly ignores that SBC's methodology

does not conform to the business rules governing these measures -- a deficiency that is the

subject of BearingPoint's Exception 175 discussed above. The fact that E&Y failed to detect this

infirmity in SBC's data is telling evidence of the inadequacy of the E&Y audit.

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[161] Compliance Report, Attachment A, Issue 10 at 9.

[162] Dolan/Horst Aff., Attachment F, Appendix A - Attachment 2, Issue 10(ii) at 20.

[163] Compliance Report, Attachment A, Issue 13 at 10.

[164] Dolan/Horst Aff., Attachment F, Appendix A, Attachment 2, Issue 13 at 22.

136. In its Corrective Actions Report, E&Y noted that, in calculating its

performance results for Performance Measurement MI 14 (Percent Completion Notifications

Returned Within "X" Hours of Completion of Maintenance Trouble Ticket), SBC used an

erroneous formula "to handle negative time intervals that occur when the Clear Request Receive

is before the Clear Time."[165] However, in implementing a new programming code to correct this

error, SBC found "certain data anomalies . . . that represent approximately 4% of the total

records."[166] Although E&Y does not describe the nature of these so-called "data anomalies,"

these unidentified data discrepancies plainly call into question the accuracy of SBC's

performance results for Performance Measurement MI 14.

137. E&Y's own reports are riddled with other examples of SBC's error-ridden

performance results, including the performance data in its Application. Thus, for example:

- E&Y found that SBC inappropriately excluded LASR transactions from its
  performance results for numerous measures. As of December 19, 2002,
  SBC had not undertaken any corrective action. Thus, SBC's performance
  results for these measures for September, October and November 2002 are
  inaccurate.[167]

- E&Y admits that SBC failed to capture xDSL loops with LNP for
  Performance Measurements 7, 10.4, 91, 93, and MI 2. Although SBC has
  admitted that a coding change including xDSL loops with LNP was
  implemented (effective with October 2002 results) for PMs 7, 10.4 and
  MI 2, SBC apparently has not resolved the inaccuracies in its September
  2002 data for these measures. Furthermore, although SBC claims
  corrective action for Performance Measurements 91 and 93 was scheduled
  to be implemented with its November 2002 data, SBC apparently has not

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[165] *Id.*, Issue 16(ii) at 23.

[166] *Id.*

[167] *Id.*, Issue 3 at 25. The measures affected by these problems are: 5, 5.2, 6, 7, 7.1, 8, 9, 10, 10.1, 10.2, 10.3, 10.4, 11, 13, and 13.1.

addressed inaccuracies in its September and October 2002 results for these measures.[168]

- E&Y found that SBC failed to exclude CLEC-caused misses in accordance with the business rules governing Performance Measurements 7.1 and 91. However, SBC does not plan to implement computer programming changes to resolve these problems until February 2003. Thus, SBC's performance results for Performance Measurements 7.1 and 91 are inaccurate.[169]

- E&Y found that, instead of using the actual due date requested by the customer when reporting results for Performance Measurement 28 (Percent POTS/UNE-P Installations Completed Within the Customer's Requested Due Date), SBC used the SBC-offered due date "when the requested due date was greater than or equal to the standard offered interval."[170] Because SBC does not plan to implement corrective action until its January 2003 results, it is clear that its September, October and November 2002 data in its Application are inaccurate.

- E&Y found that SBC incorrectly included in its results for Performance Measurements 28-33 "internal orders correcting the CLEC account on a partial win back."[171] Because SBC does not plan to implement a new programming code to correct these problems until its February 2003 results, the data for these measures in its Application are unreliable.

- E&Y found that SBC used "the wrong field to determine the exclusion for customer-requested due dates in excess of the stated time period in the Business Rules" for Performance Measurements 43, 44, 55, 55.1, 56 and 56.1.[172] Although SBC plans to implement a new programming code with January 2003 results that ostensibly should correct these problems, the data for these measures in its Application for these are inaccurate.

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[168] *Id.*, Issue 4 at 26.

[169] SBC concludes that restatements are unnecessary because corrections to the data would simply improve its performance results. *Id.* SBC's assertions are frivolous. As DOJ pointed out in its evaluation of BellSouth's *Georgia/Louisiana 271* application, such errors in reporting are probative in evaluating the reliability of reported results. DOJ *Georgia/Louisiana 271* Eval. at 34 n. 115 (noting that "BellSouth cannot ignore errors that result in reported performance being worse than actual performance," and that "metrics must neither understate nor overstate actual performance").

[170] Dolan/Horst Aff., Attachment F, Appendix A - Attachment 2, Issue 11 at 34.

[171] *Id.*, Issue 12 at 35.

[172] *Id.*, Issue 14(ii) at 36.

- E&Y found that SBC failed to capture the start time correctly when calculating results for Performance Measurements 55.1, 56 and 58.[173] Although SBC asserts that it implemented a fix for this problem effective with October 2002 data, SBC has not confirmed that it restated its September 2002 performance results for these measures.

138. E&Y's most recent report reveals other problems regarding the reliability of SBC's data. In its January 14 Report, E&Y noted that, in calculating results for the ordering measures, SBC "excluded wholesale transactions when a field identifying the CLEC was blank."[174] In this report, E&Y stated that "[e]ffective with February 2003 results scheduled to be reported in March 2003, [SBC] will begin including records when the field identifying the CLEC was blank in results."[175] On its face, E&Y's most recent report confirms that SBC has unilaterally excluded wholesale categories of orders from SBC's reported results. As a consequence, the ordering data in its application are inherently unreliable.

139. Similarly, in the January 14 Report, E&Y noted that SBC has excluded weekends and holidays from the calculation of certain measures -- an exclusion that was "not specifically stated in the Business Rules."[176] E&Y's report states that "[t]he Company plans to implement revised computer code for January 2003 results reported in February 2003 to include weekends and holidays in the PM calculation" for PMs 105 and 106 and notes that no

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[173] *Id.*, Issue 16(ii) at 38.

[174] Dolan/Horst Aff., Attachment H, Attachment A, Section III at 7.

[175] *Id.*

[176] Dolan/Horst Aff., Attachment H, Attachment B at 1.

restatements are planned for March, April, or May 2002.[177] Based upon this report, it would

appear that SBC's prior reported results are inaccurate.

140. In addition, E&Y in its Controls Report purportedly "assessed the

effectiveness of Michigan Bell's controls over the processes used to calculate and report

performance results in accordance with the Business Rules."[178] E&Y found that SBC lacked

controls in two critical processes that are used to generate performance data:

> [C]ertain processes used to generate performance measurement, primarily
> related to the manual collection and processing of data and computer
> program coding and modifications, *did not include certain controls* to
> ensure the accuracy of the reported performance measurements. These
> control deficiencies contributed to the need to restate certain data and
> modify performance measurements on a prospective basis.[179]

141. In an effort to rationalize E&Y's findings regarding the lack of controls in

its performance monitoring process, SBC offers a host of excuses. SBC asserts that these defects

are attributable to the following three issues: "(1) initial implementation of the performance

measures in the year 2000; (2) implementation of the LASR application as part of the Plan Of

Record ("POR") release in April 2002, and (3) the execution of certain manual activities required

in the monthly performance measure result generation process."[180] Each excuse is meritless.

142. SBC contends that the rigorous schedule "dictated by merger stipulations

and conditions" gave SBC fewer than nine months to implement the majority of its

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[177] *Id.*

[178] Ehr Aff. ¶ 223.

[179] Controls Report at 1 (emphasis added).

[180] Ehr Aff. ¶ 225.

measurements.[181] However, SBC blithely ignores that it agreed to the timeline for

implementation of the performance measurements as part of the merger conditions. More

fundamentally, SBC also ignores that E&Y found that *two years after* SBC's initial completion

of the performance measures it was still lacking the necessary controls to assure the accuracy of

reported results.

143. Furthermore, SBC contends that implementation of the LASR interface,

which was required as a result of the SBC/Ameritech merger, "involved complex upgrades to

Michigan Bell's wholesale service request and order processing systems," which presented "a

difficult challenge in connection with performance measurements reporting architecture and

change control processes that Michigan Bell believes it has met."[182] Once again, however, SBC

agreed to implement uniform OSS interfaces and uniform business rules for those interfaces as a

condition for Commission approval of the merger. SBC decided to incorporate the LASR system

into the Ameritech region to meet its POR obligations, and SBC agreed to the very timetables for

implementation that it now suggests were unduly onerous.

144. Additionally, SBC suggests that the lack of controls identified by E&Y are

perfectly understandable because "[t]he nature of the processes being measured requires" manual

processing.[183] Indeed, SBC claims that automated processes are not warranted "where volumes

of transactions are very low."[184] However, SBC controls the extent to which it relies upon

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[181] *Id.*

[182] *Id.* ¶ 226.

[183] *Id.* ¶ 229.

[184] *Id.*

manual processing in the collection, calculation, and reporting of results. Furthermore, despite

its suggestions to the contrary, SBC relies upon manual processes for measures that involve large

volumes of transactions. In its response to questions that AT&T posed during a Technical

Conference, SBC identified the measures that are manually collected, calculated, and reported.

These include such measures as PM 20 (Unbillable Usage), which averaged 198 million

transactions during the June to August 2002 period; PM 25 (Local Operations Center Grade of

Service), which averaged more than 54 thousand transactions each month; and PM 79 (Directory

Assistance Grade of Service) and PM 80 (Directory Assistance Average Speed of Answer),

which both averaged in excess of 8 million transactions each month. Many of the mechanized

measures involve far lower volumes than measures that are subject to manual processing.

145. In all events, SBC contends that any concerns regarding the lack of

controls in its performance measurement production can now be laid to rest. In embellishing this

assertion, SBC contends that it has "implemented and documented a wide range of controls," and

that it is "actively investigating opportunities to implement additional controls into the metrics

reporting process."[185] Notably, SBC reports that it has implemented additional controls so that

its performance data are processed "multiple times to ensure consistent results."[186] Once again,

SBC's assertions constitute nothing more than promises, and such promises cannot and should

not serve as a suitable surrogate for empirical evidence demonstrating stability in performance

results. Moreover, given the seemingly unending stream of restatements that SBC has made and

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[185] *Id.* ¶ 228.

[186] *Id.*

continues to make, whatever enhanced controls it purportedly has implemented are plainly

ineffective.

V. SBC'S LIMITED PROVISION OF RAW DATA TO AT&T DEMONSTRATES THE LACK OF INTEGRITY IN SBC'S RAW DATA.

146. SBC correctly points out that the MPSC found that "'raw data should be

retained in sufficient detail so that a CLEC can reasonably reconcile the data captured by the

ILEC (for the CLEC) with its own internal data.'"[187] Similarly, this Commission has found that

"the availability of raw performance data" is of probative value in evaluating the reliability of

performance data.[188] SBC contends that the CLECs' access to SBC's raw data also demonstrates

the reliability of its performance data.[189] Notwithstanding SBC's partisan, self-serving assertions

to the contrary, AT&T has encountered considerable difficulties in obtaining, upon request, the

raw data underlying SBC's performance results.

147. SBC has been unable to implement for Ameritech the raw data request

process used successfully in SBC's SWBT and PAC Bell operating companies. AT&T has been

able to use a web-based raw data request process in Texas and California for several years.

Although AT&T has asked for the same capabilities in the Midwest, SBC has been unable or

unwilling to provide it. Therefore AT&T is unable to request all of its raw data for a given

month, and must make separate raw data requests to AT&T's SBC account team.

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[187] *Id.* ¶ 269 (citation omitted).

[188] *See Georgia/Louisiana 271 Order* ¶ 19.

[189] *See, e.g.,* Ehr. Aff. ¶ 267, 269.

148.   Several weeks ago, AT&T requested raw data from SBC on a number of

measures, including raw data from September, October, and November 2002 underlying certain

submeasures of Performance Measurement 39 (Receipt to Clear Duration) which measures how

long it takes SBC to clear CLEC trouble reports for UNE-P service. SBC furnished the raw data

for the measurement on January 22. That data showed that 64% (9,186) of AT&T's trouble

tickets used for the calculation of the performance measure results were excluded. However, the

raw data file contained incomplete trouble ticket disposition code information; therefore, it was

impossible for AT&T to discern the purported bases upon which SBC excluded AT&T's trouble

tickets from the raw data. AT&T informed SBC of the incomplete nature of data, and another

file was sent on January 30, 2003. This file was also incomplete -- incredibly, it contained *no*

trouble tickets. Again, AT&T informed SBC that the data was not complete, and yet a third file

was sent to AT&T on February 3, 2003. The latest file contains only 18,895 trouble tickets -- a

difference from the original file of over 9,000 tickets. While a lower percentage of tickets was

excluded in the third raw data file -- 49% -- a preliminary review of the data shows that the

"missing" tickets in the latest data file were the ones that were categorized as "excluded" in the

initial file sent on January 22, 2003.

149.   Thus, it appears that SBC is unable to provide AT&T with accurate,

detailed raw data. Three attempts to provide raw data for one submeasure of one measure

produced three completely different and inaccurate files. AT&T has again requested an accurate

file, but at this time, SBC's assertions regarding its willingness, and ability, to provide raw data

to the CLECs ring hollow.

VI.   SBC'S OWN DATA SHOW PERFORMANCE PROBLEMS.

150.   Even SBC's own inadequate data show that it has failed to provide

nondiscriminatory access to its OSS. By SBC's own admission it "has been unable to meet the

parity standard for the submeasures associated with PM 13 (Order Process Percent Flow

Through)."[190] For example, SBC also concedes that, from September through November 2002, it

has failed to meet the 97% benchmark for Performance Measurement 7.1-04 (Percent

Mechanized Completions Returned Within One Day of Work Completion - LNP Only).[191] SBC

also failed the benchmark standard in November. During November, SBC returned only 68.72%

of timely mechanized completion notices for LNP only.[192]

151.   SBC's own data show that, in September, November and December 2002,

SBC failed the performance standard for Performance Measurement 29-07 (% AIT Caused

Missed Due Dates - UNE-P - Business-FW).[193] In November 2002, although SBC missed the

due dates on 3.28% of the orders for its retail customers, it missed the due dates on 7.95% of

CLEC orders in this measurement category. Similarly, in December 2002, although SBC missed

the due dates on 3.05% of the orders for SBC's retail customers, it missed the due dates on

8.28% of CLEC orders.

152.   Similarly, in September, November and December 2002, SBC failed the

parity standard for Performance Measurement 35-07 (% Trouble Reports Within 30 Days of

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[190] Ehr Aff. ¶ 45.

[191] *Id.* ¶ 50.

[192] Michigan Performance Measures - Hit or Miss Report - SBC Midwest, PM 7.1-04.

[193] *Id.*, PM 29-07.

Installation - UNE-P BUS-FW). In September, 9.23% of CLEC orders experienced provisioning

troubles, while 5.66% of SBC's retail orders experienced such troubles. In November 2002,

although 12.97% of CLEC orders experienced provisioning troubles, 6.80% of retail orders

experienced such troubles. In December 2002, while 9.89% of CLEC orders experienced

provisioning troubles, 6.81% of SBC's retail customers experienced such troubles.[194]
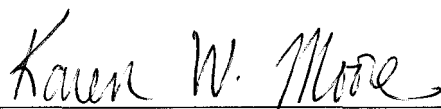
CONCLUSION

153.   The current record provides no basis for a finding that SBC's performance

data are accurate and reliable and show checklist compliance. SBC cannot legitimately contend

that the BearingPoint and E&Y audits validated the accuracy of their data. Both audits are

incomplete, and the E&Y metrics audit is seriously flawed. Putting these deficiencies aside, both

audits have uncovered substantial deficiencies in SBC's performance monitoring and reporting

processes that must be corrected before Section 271 approval. And even SBC's flawed data

show that it has not fully satisfied its checklist obligations.

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[194] *Id.*, PM 35-07.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the

best of my knowledge and belief.

Executed on February 6, 2003

Karen W. Moore
Karen W. Moore

I hereby declare under penalty of perjury that the foregoing is true and accurate to the

best of my knowledge and belief.

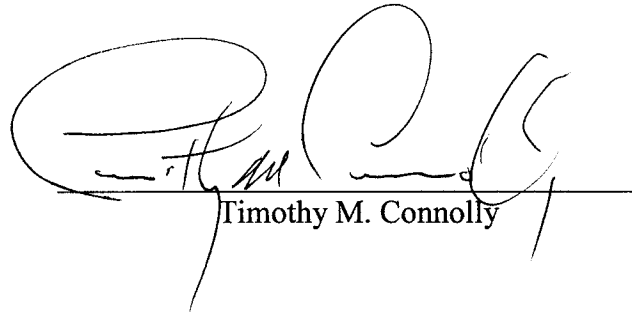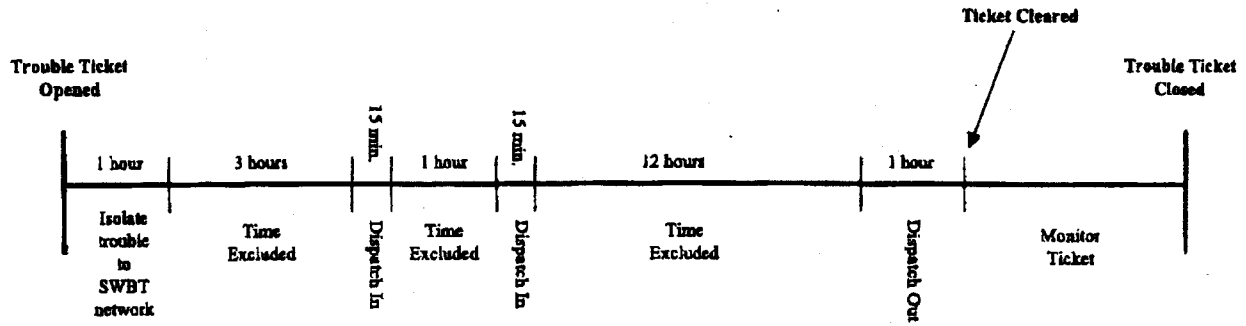Executed on February 6, 2003

_____
Timothy M. Connolly

SWBT UNE-Loop Trouble Ticket Example

Ticket Cleared

Trouble Ticket
Opened

Trouble Ticket
Closed

| 1 hour | 3 hours | 15 min. | 1 hour | 15 min. | 12 hours | 1 hour | |

Isolate trouble to SWBT network — Time Excluded — Dispatch In — Time Excluded — Dispatch In — Time Excluded — Dispatch Out — Monitor Ticket

Birch MTTC - 18.5 hours

SWBT Calculated "Responsible Duration" - 1.5 hours

Issue Type	Number	Issue Date	PMs Affected	Issue Description
O	709	11/27/2002	115.2	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement 115.2 ("Percent Provisioning Trouble Reports") for July, August and September 2002.
O	738	12/10/2002	115.1	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement 115.1 ("Mean Time to Restore – Provisioning Trouble Reports") for July, August and September 2002.
O	741	12/12/2002	WI 5	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement CLEC WI5 ("Percentage of Protectors Not Moved After Technician Visit") for the July, August and September 2002 data months.
O	747	12/12/2002	100, 101	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurements 100 ("Average Time of Out of Service for LNP Conversions") and 101 ("Percentage Out of Service < 60 minutes") for the July, August and September 2002 data months.
O	768	12/20/2002	56	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement 56 ("Percent Installations Completed within Customer Requested Due Date") for July, August, and September 2002.
O	776	12/31/2002	55.1	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement 55.1 "Average Installation Interval - DSL") for the July 2002 data month.
O	777	12/31/2002	115.1	SBC Ameritech is improperly applying exclusions in the calculation of Performance Measurement 115.1 ("Percent Provisioning Trouble Reports (PTR) (Rev. 2/20/02)") for the July, August and September 2002 data months.
O	778	12/31/2002	5.2	SBC Ameritech is improperly applying exclusions in the calculation of Performance

Issue Type	Number	Issue Date	PMs Affected	Issue Description
				Measurement 5.2 ("Percentage of Unsolicited FOCs by Reason Code") for the July 2002 data month.
O	785	1/16/2003	110, 111	SBC Ameritech's posted results for Performance Measurements 110 ("Percentage of Updates Completed into the DA Database within 72 Hours for Facility Based CLECs") and 111 ("Average Update Interval for DA Database for Facility Based CLECs") do not follow the July, August or September 2002 published metrics business rules.
O	786	1/16/2003	120	SBC Ameritech's posted results for Performance Measurement 120 ("Percentage of Requests Processed Within 30 Business Days") do not follow the July 2002 published metrics business rules.
O	787	1/16/2003	5, 6, 7, 13.1, MI 9, MI 13	SBC Ameritech is improperly applying exclusions in the calculation of 6 performance measures for July, August and September 2002.
O	792	1/23/2003	MI 9	SBC Ameritech's posted results for Performance Measurement MI 9 ("Percentage Missing FOCs") do not follow the July 2002 published metrics business rules.
O	793	1/23/2003	114, 114.1, 115, 115.1	SBC Ameritech's posted results for Performance Measurements: 114 ("Percentage of Premature Disconnects (Coordinated Cutovers)") 114.1 ("CHC/FDT LNP with Loop Provisioning Interval") 115 ("Percentage of Ameritech Caused Delayed Coordinated Cutovers") 115.1 ("Mean Time to Restore – Provisioning Trouble Reports") do not follow the August 2002 published metrics business rules.
O	794	1/23/2003	12	SBC Ameritech's posted results for Performance Measurement 12 ("Mechanized Provisioning Accuracy") do not follow the July and August 2002 published metrics business rules.